Noted
WTP

Sectt. II-15-78,406—8-11-...

H.E.L.A. **(195 4) Department.**

Ms. **SERIES.**

G.O. No. 2805 Health

Order on
In 95-98 cf

Dated 15th October 1954

FOR MYSORE STATE

[Despatch Abstract.]

Licence - Dangerous and Offensive Trades - South Kanara District - Establishment of a Tannery in Tiruvail village - Revocation of licence granted - Objections against - Orders passed.

Ref.C.No.C3/25398-53.

South Kanara District Board Office
Mangalore, dated 23rd May 1954.

From

Sri A.Mahalingam Chettiar, I.A.S.,
Special Officer, District Board, S.Kanara.

To

The Secretary to Government,
Health, Education & L.A.Department,
MADRAS

DIVISION SECRETARY TO GOVT.
27 MAY 1954
5384
HEALTH, EDN. & LOCAL ADMN. DEPT.

Sir,

Subject: DISTRICT BOARD RESOLUTION -- Suit Notice Claiming damages for cancellation of licence for tannery.

I enclose a copy of the resolution of the District Board meeting held on 20-5-1954, on the subject of a suit notice received by me as Special Officer and the District Board.

2. On 9-7-1953 Messrs Sequeira & Co., applied to the District Board requesting for licence to run a tannery in S.No. 10 of Tiruvail village of Mangalore Taluk. The letter was forwarded to the District Health Officer for his remarks. The District Health Officer in his N.Dis.No.2481-53 dated 17-8-1953 reported that there was no objection to the grant of licence from the public health point of view and that the T.B.Sanatorium ground was at a distance of 930 yards from the tannery site. I was also given to understand that the tannery was to be run as a cottage industry and in view of this and also the recommendation of the District Health Officer, I ordered the grant of the licence on 16-9-1953, subject to the condition that the tannery should be constructed as per the by-laws of the District Board and a flush out two seated latrine should also be provided (Encl.1).

3. On 16-10-1953 I received a letter from the Secretary, Madras Provincial Welfare Fund, South Kanara Branch objecting to the grant of the licence to the tannery on the ground of its proximity to the T.B.Sanatorium at Moodushedde the work connected with which was nearly completed and which was expected to start functioning very early (Encl.2 -a). He pointed out that the manufacturing process in a tannery would certainly give out an offensive smell injurious to the health of the patients in the Sanatorium and would be a source of continuous and continual nuisance to the Sanatorium. I also received a petition (Encl. 2-b) from the residents of Tiruvail village on 19-10-1953 objecting to the grant of the licence on the ground that that the water source for the whole village started from the very place where the tannery was to be established, and that there were many houses close to the tannery site and that the wind blew from the tannery site to the Sanatorium site side carrying the foul smell which would be detrimental to the health of the poor sufferers in the Sanatorium. In forwarding this petition the District Medical Officer remarked that it would be objectionable to have a tannery anywhere within a radius of two miles of the Sanatorium although the Sanatorium Act was not in force in the area.

4. A few days later the Minister for Public Health (Sri A.B.Shetty) visited the district. The Secretary of the Madras Provincial Welfare Fund presented a petition to him wit

/p.t.o./

a copy to me, urging him to have the matter of the grant of the licence to the tannery near the T.B.Sanatorium examined thoroughly. The Minister drew my attention to the petition and also told me that the Director of Medical Services considered the existence of the tannery at the site very objectionable and asked me to examine the matter. I examined the papers and on 11-11-1953 I issued an order holding in abeyance the order granting permission to run the tannery. (Encl. 3).

5. On 26-11-1953, I received a letter from Messrs Sequeira & Co., stating that theirs was only a cottage industry employing not more than 4 or 5 persons and that it would not be expanded and requesting me to hold a local inspection and satisfy myself as to the validity of the objections raised before passing further orders. I held a local inspection of the site on 25-1-1954 with due notice to the parties concerned. Sri D.Mohan Rao, Secretary of the Madras Provincial Welfare Fund, Sri U.P.Mallya its President, Sri T.N.Bhandary, Sri B.V.Baliga, M.L.A., Sri L.C.Pais, M.L.A., Sri P.R.R.Punja, the District Health Officer and the District Medical Officer were present at the inspection . (Encl.4).

I found that the distance of the sanatorium site boundary line was only 920 feet from the proposed tannery and not 930 yards as reported by the Health Officer, that the direction of the breeze at times was from the tannery site to the Sanatorium site, that a pucca tiled building for running the tannery had been put up which could not have been got constructed within the short interval between the issue of licence on 21-9-1953 and 11-11-1953 on which date the order granting the licence was held in abeyance, that the District Health Officer had given me incorrect information and failed to give me the proper technical advice in the matter. I therefore revoked the licence granted to Messrs Sequeira & Co., in my Ref.No.C3-25398/53 dated 7-2-1954 as it was issued as a result of misrepre-sentation of facts. (Encl.5.)

6. On 23-2-1954 Messrs Sequeira and Co., filed an appeal to the District Board against my orders (encl.6.) I forwarded this appeal to the Government Pleader for his opinion on the various points raised in the appeal. I also directed the Secretary of the District Board to measure the distance of the Sanatorium and other dwelling houses from the tannery. He accordingly visited the site and made measurements on ground. He reported that two of the dwelling houses were actually within the limit of 200 yards from the tannery building thereby violating by-law No.1. framed by the District Board for grant of licences for running a tannery and that other houses in the locality were within 200 yards of the boundary of the tannery premises. The report of the Secretary was also sent to the Government Pleader who thereupon gave his opinion that the Special Officer has the powers of the District Board and could dispose of the appeal. He stated that the action of the Special Officer in revoking the licence was legally correct and that it was illegal to grant the licence in view also of the violation of the by-law by the licensee. A copy of his opinion is enclosed. (Encl.7.). The matter was placed before the District Board as per section 212 (5) of the M.D.B.Act and the

following resolution of the Board was recorded (Encl.8)

" The District Board sees no reason to interfere with the orders of the Special Officer - Roc.No.C3-25398/53 dated 7-2-1954 withdrawing the permission and cancelling the licence granted to Messrs Sequeira & Co., Mangalore to run a tannery in S.No.10 of Tiruvail village, Mangalore taluk and accordingly rejects the appeal preferred by Messrs Sequeira & Co., for the following reasons:---

(i) The working of a tannery near the T.B.Sanatorium will be injurious to public interest. The distance of the Sanatorium boundary line is only 920 feet from the premises of the building proposed to be used for running the tannery. The direction of the breeze is at times from the side of the tannery site towards the sanatorium site. Offensive smell will emanate from the tannery which is injurious to the health of the inmates of the sanatorium.

(ii) One of the conditions under which the Special Officer granted permission to the appellants in this office D.Dis.No.15538-53 dated 16.9.1953 was that the tannery building should be constructed as per the by-laws of the District Board. By-law No.1 of the District Board requires that no premises used for storing and otherwise dealing with hides or skins shall be situated within 200 yards of human habitation. The Secretary of the District Board after measuring the distances has reported that two residential houses in the occupation of Sri Jaru Poojary son of Boggu Poojary and Devu Poojary son of Somayya Poojary (house Nos.2/2 and 16) are within a distanc of 200 yards from the tannery building. The actual distances are reported to be 556 and 549 feet respectively. If the distances are measured from the premises of the tannery building (boundary of the tannery site) they are reported to be much less than 556 and 549 feet referred to above. The appellant has thus violated the by-laws of the District Board. It will therefore be illegal to grant the licence to the tannery in question.

(iii) The appeal purports to be under section 198 (b) of the District Board Act. This section contemplates appeals under the places of Public Resort Act. On this ground also the appeal is liable to rejection."

The resolution of the District Board was communica-ted to Messrs Sequeira & Co., in my reference Ref.C.No. C3-25398/53 dated 27-4-1954. They have now sent the suit notices referred to above. (Encl.9.)

7. In this connection I would like to bring to the notice of the Government certain facts connected with the T.B.Sanatorium. The Madras Provincial Welfare Fund, South Kanara Branch had suggested to the Government the starting of a T.B.Sanatorium at Moodushedde. This suggestion was accepted by the Government and as per G.O.Ms.No.983 Rev.Dept.,dated 9-4-1949 an area of 263 acres 57 cents of Government land at Moodushedde was reserved for the Medical department for the construction of the Sanatorium. The scheme was expected to cost initially Rs.2,34,250/- for building and equipment. The Government sanctioned a grant of Rs.one lakh and the Provincial Welfare Fund was required to find the balance of Rs.1,34,250/-. The Govefnment also agreed to the proposal of the Welfare Fund that they construct the building under the supervision of the P.W.D. spending Rs.1,34,250/- from its funds and with a contribution of Rs.29,400/- from Government out of the grant of Rs.one lakh sanctioned. The balance of Rs.70,600/- was to be spent on equipment and supply of water. The building has been completed and the P.W.D. have begun the work

connected with water supply and drainage to the Sanatorium building. At the time of my local inspection I was informed by the Secretary of the Welfare Fund that the Sanatorium was to be opened by March 1954. Once it starts functioning, as per clause 3 of G.O.No. 3403 P.H., dated 26-9-1949 the buildings and the lands offered by the donors will become the absolute property of the Government and as per clause 4, the entire maintenance charges will be met out of Provincial Funds. The T.B.Sanatorium is thus a Government institution to serve the public of this district. I understand that the Madras Provincial Welfare Fund Mangalore Branch has already applied to the Government for extending the Sanatorium Act to the locality. It is absolutely necessary to extend the Act to the locality immediately. The Secretary of Madras Provincial Welfare Fund has also sent up a proposal to acquire the adjacent site including the site of the tannery for putting up Staff quarters or even rest houses for the stay of the relatives and friends of the patients.

8. It will be obvious that to permit the working of a tannery nearby would be harmful to the health of the patients in the T.B.Sanatorium and will not be in public interests. While granting the licence I had relied on the report of the District Health Officer that there was no objection from the public health point of view and that the tannery site was at a distance of 930 yards from the Sanatorium grounds whereas subsequent inspection and verification showed that the sanatorium building itself is not more than 1000 feet from the tannery premises and the actual distance from the tannery building and the Sanatorium building is only 1948 feet. It was in these circumstances and because also there was a violation of the by-laws of the District Board that the licence was cancelled.

9. I have also obtained a second legal opinion of a leading Civil Lawyer who has a vast experience of District Board administration on receipt of the suit notice.(Encl.10). He has given a clear and cogent opinion on all the points involved and has said that the action taken by the Special Officer and the District Board is legally correct and that the threatened suit is frivolous and unsustainable. A copy of his opinion is also enclosed.

10. The explanation of the District Health Officer for the incorrect report submitted by him in the first instance is being submitted to Government separately.

11. I request that the action taken by the Special Officer and the District Board in the matter may be approved by Government.

25/5/54

Special Officer,
District Board, South Kanara.

Encls: 12.

23/5/54

Encl. 1

Copy of proceedings D.Dis.No.15538-53 dated 16-9-1953 of the pecial Officer, District Board, South Kanara.

Subject: LICENCE - Dangerous & Offensive Trades - Mangalore taluk Tiruvail village - S.No. 10 - Tannery - Construction of a building - issue of - orders passed

read the following:

1) Application dated 9-7-1953 from the Partner Sequeira & Co., General Merchants, Mangalore.
2) Endt.of the Dt.Health Officer, S.K. - N.Dis.No. 2481-53 dated 14-8-1953.

As recommended by the District Health Officer, South Kanara permission to construct and run a tannery in S.No.10 of Tiruvail village, Mangalore taluk is granted to the applicant Messrs Sequeira & Co., General Merchants, Hampankatte, Mangalore subject to the following conditions:---

(i) Building should be constructed as per by-laws framed by the District Board for the purpose.

(ii) A two seater flush-out pit latrine should be constructed for the workers at the site to be approved by the Health Inspector.

2. A printed licence will be issued to the applicant on his furnishing an application in the printed form and on remitting the prescribed licence fee.

(sd) M.Sunder Rao

For Special Officer, Dt.Board,S.K

/True copy/

2515.

Special Officer,
District Board, South Kanara.

23/9/53

Encl. 2-a.

Copy of letter dated 14th October 1953 from D. Mohan Rao, B.A., B.L., Secretary, The Madras Provincial Welfare Fund, S.K. Mangalore to the Special Officer, Dt.Bd. S.K.

Sir,

Recently I heard that a license to establish a Tannery in Thiruvail village near the 7th mile stone on the Mangalore Karkal Highway has been granted to an individual.

It is a well known fact that the manufacturing process in a tannery necessarily gives out a stinking and most offensive smell injurious to health. I am positive that this tannery if established will be a source of daily nuisance to the T.B. Sanatorium which is being built nearby and which is expected to start working in the near future.

I am afraid the nearness of the T.B. Sanatorium to the proposed site for the tannery has not been given adequate consideration when granting the license.

Before granting lands to the Mangalore Municipality for a trenching ground even though the said site was far away from the T.B. Sanatorium site, the then Collector, Sri S.R. Kaiwar, I.C.S., inspected the site after notice to me and obtained meteorological reports about the direction of the wind etc., and after thoroughly investigating the matter with reference to the Sanatorium site, recommended the site for the trenching ground, that too on a tentative basis.

The Government in their G.O.Mis.No.3096, Health, dated 3-10-1952, have ordered that Government vacant lands within two miles of any T.B. Sanatorium in the State, should be entered in the Prohibitory order book, the intention being that indiscriminate building activity should not lead to deterioration of health and sanitary condition of the area thereby rendering it unfit to be used any longer as a Sanatorium. It is also mentioned that lands which have been already assigned could remain undisturbed so long as the lands are used for cultivation only. Appropriate action should be taken to prevent buildings springing up or dismantle them if they spring up. This G.O. has been passed to take effect up to a distance of two miles from a Sanatorium site awovedly with the object of safe-guarding the health and sanitary conditions of a Sanatorium.

Now in granting a license for a tannery only about two or three furlongs from the Mudushedde Sanatorium site, I feel that the adverse effect of the same on the Sanatorium has not been taken into consideration at all.

I would therefore request the Special Officer, South Kanara District Board, to immediately suspend the license, if any granted for a tannery, and review the order in the light of the results of a thorough investigation of the pros and cons in respect of the needs of the T.B. Sanatorium at Moodushedde.

I may please be informed of the action taken in this matter.

Sd: D. MOHAN RAO,
Secretary.

(TRUE COPY)

25/5/54

SPECIAL OFFICER,
District Board, S.K.

2.3.15

Encl-2-b.

Copy of petition dated 19th October 1953 of the residents of the Tiruvail and Mudushedde villages of Mangalore taluk, S.K.

Respected Sir,

We have come to understand that recently a licence has been granted by the Special Officer, District Board, S.K. to establish a tannery in Tiruvail village near the 7th mile stone on the Mangalore Karkal Highway. We came to know of this only very recently and hence it is that we have come up with this petition now.

It is a well known fact that a tannery gives out stinking and offensive smell always to a distance of even a mile or two from the tannery building. There are numerous residential buildings round about the place where the proposed tannery is put up. Further the water source for practically the whole of Tiruvail village starts from the very place where the tannery is to be established. Thus it is obvious that this place is very very unsuitable and likel to cause pollution of drinking water and breathing air also and we the residents of the locality are bound to suffer immensely.

Further very near to the place on the western side of it the Tuberculosis Sanatorium buildings are also coming up at a distance of about two furlongs from this place. During the major part of the day the land breeze will be blowing from the tannery side to the sanatorium site. That will be detrimental to the poor sufferers in the sanatorium also.

Further it is a well known fact that the refusement areas like skin pieces, hair, etc., are likely to be carried by crows and dogs and dropped into the neighbouring drinking water sources and compounds, which is also very very abnoxious to the residents.

We therefore humbly pray that this matter may thoroughly be investigated in the light of the above representation and pending final orders to the licensee may be asked not to proceed with any work in connection with the establishment of a tannery in the said site.

Any communications in respect of this petition may be communicated to Sri Narayana Bhandary, Landlord, Mudushedde village, Vamanjur Post, Mangalore Taluk, S.K.Dt.

Sd: xx xx

(TRUE COPY)

25/5/54

SPECIAL OFFICER,
District Board, S.K

24/5/54

Copy of Proceedings Ref.C.No.25398-C3-53 dated 11-11-1953 of the Special Officer, District Board, S.K.

.....

Subject: LICENCE - D & O Trades - Mangalore Taluk - Tiruvail village - S.No.10 - Tannery - Grant of -orders passed.

Read the following:--

1. This office proceedings D.Dis.15538/53 dated 16-9-53.
2. Copy of letter dated 8-11-1953 from the Secretary of the Madras Provincial Welfare Fund addressed to the Hon'ble Minister for Health, Government of Madras.

....

As the grant of license to run a tannery in S.No.10 of the Tiruvail village has been objected to by the Provincial Welfare Fund Committee on account of its proximity to the T.B. Sanatorium and by the residents of the locality, the orders issued in this office No.D.Dis.15538-53 dated 16-9-1953 are hereby held in abeyance. The licencees are directed not to start any operations under the licence until further orders.

Sd:- A. MAHALINGAM CHETTIAR,
Special Officer.

(TRUE COPY)

25/5/54

SPECIAL OFFICER, Dt.Bd.S.K.

25/5/54

Encl.4

Copy of the Inspection Report of the Special Officer, District Board. South Kanara, dated 25.1.54.

Inspected the site on 25.1.54. The applicant, the Dt.Mdl. Officer, the Dt.Health Officer, Sris L.C.Pais, B.V.Baliga, M.L.As. P.R.Ranganath Punja, Sris D.Mohan Rao and U.P.Mallya and the objector petitioner Sri M.Narayana Bhandary were present. The objection that the wash water of the tannery will contaminate the water sources on the other side of the road is a far fetched one.

The main objection is the proximinty of the site to the new T.B. sanatorium buildings. The Dt.Medical Officer is definitely of the opinion that it is objectionable to allow a tannery to work in the neighbourhood of the sanatorium. The distance of the Sanatorium site's boundary line is only about 920 feet from the proposed tannery. The direction of the breeze is at times from the tannery site to the sanatorium site. The Dt.Health Officer ought to have objected to the issue of the permission to the applicant at least on this ground when he inspected the site. He is expected to take all aspects of the matter before reporting that there is no objection. The permission order which was based on the Dt.Health Officer's recommendation was despatched from the Dt.Board Office on 17.9.1953, and this permission was ordered to be kept in abeyance in my proceedings 25398/C3-53 dt.11.11.1953. on the objections received. But I find at the time of inspection on 25.1.54 that a pucca tiled building has been put up at the site for starting tannery operations. The building could not have been started and completed to the present stage within the short period from 17.9.53 to 11.11.53 (less than two months). The work appears to have been started much earlier than the date of permission 16.9.1953.

I was made to understand at the time of the grant of permission that it was a small cottage industry. In fact the

applicant states so in his petition dt.25.11.1953. But I find now on enquiry that he is not a resident of the village and that he is a business man of Mangalore. The tannery proposed by him cannot be considered a cottage industry as the building appears to be designed for tanning on a commercial scale. In public interests it is not desirable to allow the tannery to exist in the site. The original permission obtained by the applicant was as result of not bringing to my notice all the true facts of the case. The applicant ought to have known that the tannery proposed to be worked by him was prejudicial to the interests of the sanatorium which was nearing completion at the time he applied for permission. I am inclined to revoke the permission issued.

Sd.A.Mahalingam Chettiar,
Special Officer.

dt.28.1.1954.

/true copy/

25/5/54

SPECIAL OFFICER
S.K. Dt. Board.

28/5/54.

Encl-5

Copy of Proceedings Ref.C.No.C3/25398-53 dated 7-2-1954 of the Special Officer, District Board, S.K.

..

Subject: LICENCE - Dangerous and Offensive Trades - Mangalore taluk - Tiruvail village - S.No.10 - Tannery - construction - grant of - Objections - orders passed.

Read the following:--

1. Letter dated 14-10-1953 from the Secretary, Madras Provincial Welfare Fund, S.K. Branch, Mangalore.
2. Petition dated 19-10-53 of the residents of the Tiruvail and Mudushedde villages of Mangalore Taluk.
3. Copy of letter dated 8-11-1953 from the Secretary, The Madras Provincial Welfare Fund, S.K. Branch, Mangalore, addressed to the Hon'ble Minister for Health, Government of Madras at Mangalore Camp.
4. This office proceedings Ref.25398-53 dated 11-11-53.
5. Inspection notes dated 28-1-1954 of the Special Officer, Dt.Board, S.K.
6. This office proceedings D.Dis.15538-53 dated 16-9-53.
7. Licence No.302/53-54 dated 21-9-1953.

.....

In this office proceedings D.Dis.15538-53 dated 16-9-53 permission to run a tannery in S.No.10 of Tiruvail village, Mangalore taluk under section 193 of the Madras District Board Act 1920(as amended) was granted to Messrs. Sequiera & Co., Merchants, Mangalore under certain conditions. It has been brought to the notice of the Special Officer, District Board, by the Secretary of the District Provincial Welfare Fund, South Kanara District Branch, Mangalore that the working of a tannery at the site which is within a radius of two miles from the Mudushedde T.B. Sanatorium will be highly objectionable and prejudicial to the health of the patients of the Sanatorium. Some local people have also objected to the running of a tannery alleging that the tanning operations are likely contaminate of water sources in the locality by the washing of hides and skins.

2. The Special officer, after a local inspection of the site and the tannery buildings and the site on which the T.B. Sanatorium stands at which the office-bearers of the District Provincial Welfare Fund, the District Medical Officer, the District Health Officer, Messrs. B.V. Baliga, M.L.A., L.C. Pais, M.L.A., and the first signatory to the objection petition were present, finds that the objections raised on the ground of contamination of water sources is unsustainable and farfetched. But the objection pressed before him by the Secretary of the District Provincial Welfare Fund however deserves special consideration in the interests of the patients who will be undergoing treatment at the Sanatorium when the Sanatorium begins to function. The distance of the Sanatorium site's boundary line is only about 920 ft. from the proposed tannery. The direction of the breeze is at times from the tannery site towards the Sanatorium site. The full and true facts of the case were not brought to the Special officer's notice when permission was granted to the applicant. After taking into consideration all the facts now brought to the notice, the Special Officer is of opinion that in public interests it is not desirable to permit a tannery to operate in the neighbourhood or vicinity of the T.B. Sanatorium.

He therefore, hereby withdraws the permission granted in this office proceedings D.Dis.No.15538-53 dated 16-9-53 and cancels the licence No.302/53-54 dated 21-9-1953 granted to Messrs. Sequeira & Co., Mangalore to work the tannery.

Sd: A. MAHALINGAM CHETTIAR,
Special Officer.

(TRUE COPY)

25/2/54

SPECIAL OFFICER,
District Board, S.K.

Encl.6.

Mangalore,
23-2-1954

To

The District Board,
South Kanara, Mangalore.

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Appeal petition of Messrs. Sequeira & Co., Mangalore, against the order of the Special Officer, Dt.Board,S.K Ref.C.No.C3/25398-53 dated 7-2-54 cancelling the licence No.302/53-54 dated 21-9-53 for constructing and running a tannery in field No.10 of Tiruvail village, Mangalore Taluk.

...

The appellants are aggrieved by the order quoted above and are filing this appeal as against that order as by the Special Officer. Appendix I is the true copy of the order appealed against.

2. The appellants' appeal is to be heard under section 198(b) by the members of the Board. The appellants are not aware as to whether the Board is functioning or in whom the powers of the Board are now vested. The appellants represent that the appeal could be posted before the Board as by the Special Officer and if the Board is not functioning, the Special Officer could please post or forward the appeal before the competent authority in whom the powers of the Board vest at present.

3. The appellants beg to point out that the South Kanara District Board has framed its own bylaws under section 202(8)of the Local Boards Act and the bylaws are intended to secure sanitary control and supervision of places used for any of the purposes specified in Schedule VII and of any trade or manufacture carried on therein. Under the rules framed by the South Kanara District Board, it is specified that no premises used for storing or otherwise dealing with hides and skins or for tanning hides and skins shall be situated within 200 yards of any human habitation. Certain other rules are also framed as to the requisite conditions before a licence could be issued for storing and dealing with hides and skins or tanning hides and skins.

4. The Special Officer did issue a licence to the appellants with full cognizance of the conditions existing at the locality. It is apparent that even before he issued the licence, he took care to get the site examined and he was of clear opinion that none of the rules framed under section 202 clause(8) of the Madras District Boards Act were infringed by the putting up of the building or running the tannery in survey No.10 of Tiruvail village which belongs absolutely to one of the partners amongst the appellants. Appendix II is a true copy of the licence issued.

5. In fact the licence is issued to the appellants (vide Appendix II) subject to certain conditions as to the manner in which the building was to be put up i.e. the buildings were to be constructed as per the bylaws framed by the Dt.Bd. for that purpose. A two-seater flush out pit latrine was to be constructed for the workers at the site to be approved by the Health Inspector. A printed licence was issued to the appellants as in order dated 16-9-53. The copy of the order in Appendix II speaks for itself as to show the Special Officer found on 16-9-53 that the putting up of the building by the appellants was in no way dangerous or offensive, and as to how no section of the Madras Local Boards Act was infringed by the intended construction or the running of the tannery.

p.t.o.

6. The intended revocation of the licence made in the order appealed against is presumably made under section 212(5) which reads as follows:--

"Subject to the special provisions in Chapter XI regarding private markets ... any licence or permission granted under this Act or any rule or by-law made under it may at any time be suspended or revoked by the Executive Authority of the Dt.Bd. concerned, if any of its restrictions, limitations or conditions are evaded or infringed by the grantee, or if the grantee is convicted of a breach of any of the provisions of this Act, or any rule, bylaw or regulation made under it in any manner to which such licence or permission relates, or if the grantee has obtained the same by misrepresentation or fraud. An appeal shall lie to the Dt.Board concerned against any order of the Executive Authority under this sub-section suspending or revoking a licence"

7. The present order(which is appealed against is marked as Appendix I) and a reading of the order will indicate that the Special Officer has not held that any of the conditions of the licence were ever infringed by the grantees who are the aprellants. What the Special Officer says is that the full and true facts of the case were not brought to the Special Officer's notice when permission was granted to the appellants. The only new points which are now alleged to be brought to his light, according to the new order, are that the distance of the Sanatorium site's boundary line is only about 920 feet from the proposed tannery and the direction of the breeze is at times blowing from the tannery site towards the Sanatorium site.

8. The appellants wish to emphasize that the very bylaws framed by the District Board as to the grant of licence for tanning industries require that no premises are to be used for storing and otherwise dealing with hides or skins or for tanning hides or skins within 200 yards of any human habitation. The appellants beg to emphasize that the boundary line of the sanatorium building is not at all the point for measurement and neither is it true fact to say that the boundary line is only about 920 feet from the proposed tannery.

9. The Sanatorium building is situated in a very wide area as in a remote village and the building of the Sanatorium is quite away from the boundary wall and outside this boundary wall is the appellants' block of 50 acres of patta land and in the midst of the same is their tannery building where they intended to store and manufacture the goods. The distance to be taken is from the building belonging to the appellants as to the building appertaining to the Sanatorium and that distance is easily more than three furlongs. The appellants emphasize that the finding by the Special Officer that the distance of the Sanatorium site boundary line is 920 feet from the proposed tannery is not what is contemplated under the bylaws framed by the District Board, which require that the tannery should be 200 yards away from the place of human habitation and the distance from the place of storage of the goods and not from the boundary line of the tannery is what is emphasized under the bylaws. The Special Officer has trumped up a cause of action which is not there, only to defeat the licencees' interest.

10. The Special Officer's observation about taking into consideration all the facts now brought to his notice is wrong. He has considered only the view points of vested interests and he has allowed himself to be misled altogether and he is functioning as a mere mouth-piece of the vested interests.

11. The Special Officer has erred in not considering our representation that we intended only to manufacture chrome tanned sole leather and not at all bark or vegetable tanning. The Special Officer has not read the tannery commission report which declares only bark and vegetable tanning as an offensive trade which requires to be controlled under Schedule VII of the Local Boards Act. As far as chrome tanning industry is concerned, it is run in places very close to dwelling houses even within 10 yards of dwelling houses and the Special Officer should have appreciated that the appellants have taken care to put up the building over 3 furlongs away from the Sanatorium which is on a higher level and the appellants' building is on a lower level.

12. The rules framed by the South Kanara Dt.Board under section 202(8) of the Madras District Boards Act are in conflict with the provisions of the Act and particularly, the rule about 200 yards distance is arbitrary and is not warranted and is in excess of the powers vested in the Local Boards. At any rate, the appellants have taken care inspite of that arbitrary rule to locate their building at a place more than 3 furlongs away from the Sanatorium.

13. The Mangalore Health Inspector, the District Health Officer and finally the Special Officer of the Dt. Board have on proper examination come to the conclusion that the intended building and the manufacturing process as by the appellants were in no way offensive or would affect the health or the sanatorium conditions in the neighbourhood. On a careful consideration of facts, the licence was issued in the first instance.

14. Thereafter, the building was put up and completed prior to the issue of the interim order(which is beyond the powers of the Special officer) not to start any operations under the licence. The appellants exphasize that the permanent building had come up even before the interim order was issued and thus under section 60 of the Indian Easements Act, the licencees who are the appellants, have put up the permanent building in pursuance of the licence granted and such a licence is irrevokable as under section 60 of the Indian Easements Act.

15. The appellants also seek to emphasize the correct findings of the Special Officer that the objections about the contamination of the water supply by the putting up of a tannery operations as by the appellants "is far-fetched and unsustainable" and that indicates to what extent the objectors were motivated by prejudice, passion, and vested interests.

16. The appellants beg to point out that the Sanatorium building is to the west and on a higher level to the tannery building and is situated within a block of 50 acres of land which belong to the appellants and the breeze blows from west to east, that is, from the Arabian Sea to the land, and thus it is imaginary to state that the breeze would in any way affect or blow in the direction of the Sanatorium.

17. The appellants can hardly conceive that any Executive Authority could ever restrict the putting up of any building within the entire area of 3 furlongs from the Sanatorium and that on account of any breeze blowing towards the sanatorium. The appellants emphasize that it is not the business of the Executive Authority to secure for a Sanatorium control over a wide area of land all round the Sanatorium to a distance of 3 to 4 furlongs. In effect, the order by the Special Officer will result in the Sanatorium controlling the entire land of 50 acres belonging to the appellants. The appellants emphasize that the test in such cases has to be made with

reference to the sanitary conditions in the locality and not on the issue that the Sanatorium should have the power to control all lands within a range of two miles from the Sanatorium.

18. The Appellants emphasize that when the Sanatorium is going to be opened(the appellants do not know the year when the work is going to be completed at the Sanatorium) it is natural to expect other buildings to come up like the residential quarters for the doctors, small shops here and there, and other premises to cater to the establishment and inpatients of the Sanatorium. The appellants' building can never be anything more than one of those buildings that would eventually come up for purpose of attending to the needs of the patients inside the Sanatorium.

19. The appellants' intention is to run a small cottage industry and that in the land belonging to them which is more than 3 furlongs away from the Sanatorium. Their tanning operations will not emanate any foul smell.

20. The action by the Special Officer intending to cancel the licence which he has once issued, is arbitrary, illegal and high-handed.

21. The appellants emphasize that what is granted once cannot be so easily revoked. The grantee has his own right and the issue of the original grant has to be constructed as a clear finding in favour of the appellants that their tannery building or their manufacturing of leathe goods at the premises will in no way be offensive to the inhabitants as in the locality or to the Sanatorium. Such a licence once issued after obtaining report by the Health Officer cannot be cancelled all of a sudden on account of other representations made by vested interests who intend to force the appellants to part with all their lands and to vacate from the locality. The appellants have every right to object to this. Their industry cannot be stifled. Our country has to grow and expand and not run to waste on account of the vested interests claiming to convert all land land within a range of 2 miles of the Sanatorium into a desert. The control can be by the Sanatorium only of the Government land and in fact there are other buildings in the neighbourhood belonging to private parties. The action by the committee of the Sanatorium in objecting only to the appellants' building and not to other buildings is motivated by prejudice, passion and selfish motive and a competitive spirit which is unhealthy, uncongenial and hopelessly wrong.

22, The appellants are aware that they can claim damages on account of their losses suffered as from the Board and even against the Special Officer personally. It is not their intention, unless forced, to mulct the Board which is a representative body, with damages or to cause the Board any financial losses on account of the wrongful act of the Special Officer who has not understood his elementary duty that he has to be consistent with his original grant and not get swayed by vested interests.

23. The appellants desire first as in this appeal to address the Board before going to Court. The appellants point out that it is open to the Board constituted by the representatives of the people to understand the appellants' grievances, to inspect the locality and to see for themselves how wrong is the final order by the Special Officer. The appellants are handicapped that the representatives of the people, who are the members of the Board, are now no longer functioning and that is why with all humility at their command they again appeal to the body or the Officer who represents the Board to consider the order by the Special Officer and to hold that a grant once issued cannot be revoked except under the provisions of section 212(5) of the Local Boards Act and

revocation of the same as by the Special Officer is unjust, arbitrary, illegal and will result in causing the appellants great loss and consequently will give rise to a claim as against the Board for damages. The appellants pray for justice. In law, they are advised that they can even ignore the subsequent cancellation order, but then, like dutiful citizens as they are, they want bare justice and they claim the same from the Members of the Board and they pray that the original order in Appendix II could be restored. That order was issued on the recommendation of the District Health Officer of the South Kanara who was in charge of the health of the entire District and such an order cannot be cancelled by the Special Officer on account of the so-called direction of the breeze.

24. The appellants will await for 60 days from this date for the favourable disposal of this appeal, failing which, they will go to Court seeking justice, fair play and an establishment of their elementary rights.

Sd: H. COLACO,
Appellants.
(For Sequeira & Co., Partner)

(TRUE COPY)

25/5/54

SPECIAL OFFICER,
District Bd.S.K.

23/5/54

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APPENDIX II

Proceedings of the Special Officer, District Board, S.K.
Sri A. Mahalingam Chettiar, I.A.S.,

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D.Dis.No.15536-53 16-9-53

Subject: LICENCE - Dangerous and offensive trades - Mangalore taluk, Tiruvail village, S.No.10 - Tannery - construction of a building - issue of - orders passed.

Read the following:--

1. Application dated 9-7-53 from the Partner, Sequeira & Co., General Merchants, Mangalore.
2. Endt.of the Dt. Health Officer, S.K. N.Dis.No.2481-53 dated 14-8-53.

.....

ORDER

As recommended by the Dt. Health Officer, S.K. permission to construct and run a tannery in S.No.10 of Tiruvail village, Mangalore taluk is granted to the applicant, Messrs. Sequeira & Co., General Merchants, Hampankatta, Mangalore, subject to the following conditions:--

1) Building should be constructed as per bylaws framed by the Dt.Board for the purpose.
2) A two seater flush out pit latrine should be constructed for the workers at the site to be approved by the Health Inspector.

2. A printed licence will be issued to the applicant on his furnishing an application in the printed form and on remitting the prescribed licence fee.

Sd: K. SANJIVA SHETTY,
for Special Officer.

/true copy/

Licence for Industries and Factories.

No.302/53-54 ... South Kanara District Board.

Licence: ... Messrs. Sequeira & Co.,

Address: .... Hampankatta, Mangalore.

Place of trade or business; R.S.No.10 at Tiruvail village.

For purpose: Tannery.

Period: From 21-9-53 to 31-3-54 bylaws enclosed.

21-9-53 Sd: K. Sanjiva shetty,
Secretary, Dt.Bd.S.K.

/true copy/

For Sequeira & Co.,
Sd: H.COLACO,
Partner.

For Special Officer.

Encl.7.

2-5

Copy of letter Ref.No.34/54 dated 21st April 1954 from B. Gangadhar Das, B.A.,B.L., to the Special Officer, Dt.Bd. S.K.

..

Sub: D & O trades - Mangalore Taluk - Tiruvail village - S.No.10- Tannery - construction of a building - grant of - objections- Opinion given.
Ref: Your C.No.23702-53 dated 17-3-54.

In this case I have gone through the file. The main point for consideration is whether the revocation of the licence granted to the Appellant for running a Tannery by the Special Officer, District Board, is in order or not. In my opinion this revocation is in order. At the time when the Special Officer passed an order granting a licence for the running of a tannery, all the facts, especially the question of nuisance to the T.B. Sanatorium which is a public institution was not before the Special Officer. If the T.B. Sanatorium was a private institution, the weight of consideration to be attached to the objections would have been slightly less. But since it is a Government institution and since the Government is intending to extend the Sanatorium Act up to a distance of about 2 miles from the place where the Sanatorium is located, the revocation of the licence is valid. Besides, at the time when the licence was granted, the question of public nuisance was not so predominent. But later on, the public also sent a petition to the District Board stating that the coming into existence of a tannery at that place would cause considerable nuisance to the people of the locality in various ways. This aspect of the question has also been considered at the time of revocation of the licence.

I am of opinion that Section 60 of the Easements Act has no application to the facts of this case. Section 60 applies only to the licences granted under Section 52 of the Easements Act. This is a licence granted only under the District Boards Act and the revocation is also under the same act.

As has been pointed out in the Office Note, this appeal does not lie under section 198(B) of the Dt.Boards Act. That is a Section which contemplates appeals under the Public Resorts Act. But on that technical ground it would not be proper to reject this appeal. However, after considering the facts stated in the Memorandum of Appeal on merits, the appeal may be rejected. Lastly, I would like to point out that the parties might contend that because a licence had been granted for the purpose of running a Tannery, they started constructing a building and that they had spent some amount for the said building. This, the appellants might say, was purely the result of their getting a licence and if the licence had not been granted, then they would not have ventured to spend for the construction of the building. Though the issue of a licence to the applicant can be said to create a contractual relationship between the licensee and the licensor under certain circumstances only, still in this particular case I am of opinion that the licencee cannot have a grievance as the authority which issued the notice was not in the full know of all the facts at the time when the licence was granted. In this connection I may be permitted to draw your attention to the commentary at page 703 of the Madras District Board Act by C.V. Naidu - "A Licence when issued is not generally considered in the nature of a Contract. It does not create a Contractual relation between the District Board to permit the pursuit of the occupation for the whole period of the licence" Then again licence is only a permission to be given to a party to run some business. It can be therefore revoked at will. But when once a licence has been granted, for its revocation, valid grounds will have to be given. In this case public nuisance, i.e. nuisance to the T,B. Sanatorium is the main ground on which the licence has been revoked. This is certainly a valid ground.

Though the question of distance from the nearest house to the tannery is one of the points which is against the appellant, this question has not been raised in the Order of Revocation. Therefore, this point can be raised in passing an order on this appeal.

In this connection, I would like to request the Special Officer to see Para 2 of the Memorandum of Appeal. In this para, the appellants have stated as follows:--

" The Appellants represent that the appeal could be posted before the Board as by the Special Officer and if the Board is not functioning, the Special Officer could please pass or forward the appeal before the competent authority in whom the powers of the Board vest at present".

In this connection the Special Officer may be pleased to inform the appellant that all the powers of the District Board are vested in the Special Officer, and in that capacity the present appeal is disposed of.

The present report of the Secretary, Dt.Board, dated 31-3-54, may also be taken into consideration by the District Board in passing orders on the appeal petition, in view of the further new facts now brought to the notice of the Board by the Secretary, viz., that two of the old -- residential houses are within 200 yards from the tannery building. This is against the bye-laws of the District Bd. It will be illegal to grant a licence as the bye-laws have been infringed and the building is in violation of the conditions imposed in the Special Officer's order D.Dis. 1553/S/8/53 dated 16-9-53. So, the revocation already made is in order and is also supported by the infringement of this bye-law.

The files sent to me are returned herewith. Please acknowledge the receipt of the same.

Sd: B.GANGADHAR DAS,
Government Pleader of South Kanara.

(TRUE COPY)

25/5/54

SPECIAL OFFICER.

25/5/54

Encl. 8

27

Extract from the Proceedings of the Special Officer, District Board S.K. dated 24-4-1954.

...

43. Read appeal petition dated 23-2-54 of Messrs. Sequeira & Co., Mangalore to the District Board, against the orders of the Special Officer, S.K. District Board, contained in Ref.C. No.C3/25398-53 dated 7-2-54 withdrawing the permission and cancelling the licence No.302/53-54 dated 21-9-53 to work a tannery in S.No.10 of Tiruvail village, Mangalore taluk and requesting that the licence granted to them may be restored for the reasons stated therein.

Also this office proceedings Ref.C.No.C3/25398-53 dated 7-2-54 withdrawing permission and cancelling the licence No.302/53-54 to work a tannery with the connected papers.

Office note on the appeal petition stating that the appeal is made under section 198(6) which section deals with appeals on revocation of licences granted under the public Resort Act and the appeal is therefore not in order, that the distances of the buildings surrounding the proposed tannery may be accurately measured as the original figures supplied by the Health Department appear to be inaccurate and that the legal opinion may be taken on the issues raised in the petition and the Special Officer's orders thereon.

Also report of the Secretary of the Dt.Board, after visiting the locality along with the Licence Inspector and Bill collector giving measurements of the distance of the houses and the Sanatorium near the proposed tannery building and stating that two occupied houses are within the limit of 200 yds.of the tannery building itself and if the distances are measured from the premises all the houses will be within the limit of 200 yds as laid down in the bylaws framed by the Dt.Board.

Also note that the building is not according to the plan submitted.

Also petitions of Boggu Poojary and Gulam Beary objecting to the grant of licence for the tannery.

Also legal opinion furnished by the Government Pleader.

RESOLUTION: "The District Board sees no reason to interfere with the orders of the Special Officer, Roc.No. C3/25398-53 dated 7-2-54 withdrawing the permission and cancelling the licence granted to Messrs. Sequeira and Co., Mangalore to run a tannery in S.No.10 of Tiruvail village, Mangalore taluk and accordingly rejects the appeal preferred by Messrs. Sequeira & Co, for the following reasons:--

1) The working of a tannery near the T.B. Sanatorium will be injurious to the public interest. The distance of the Sanatorium boundary line is only 920 feet from the premises of the building proposed to be used for running the tannery. The direction of the breeze at times is from the side of the tannery site towards the Sanatorium site. Offensive smell will emanate from the tannery which is injurious to the health of the inmates of the Sanatorium;

2) One of the conditions under which the Special Officer granted permission to the appellant in this office D.Dis.15538-53 dated 16-9-53 was that the tannery building should be constructed as per the by-laws of the Dt.Board. By law No.1 of the Dt.Board requires that no premises used for storing and otherwise dealing with hides or skins or for tanning hides or skins shall be situated within 200 yards of any human

habitation. The Secretary of the District Board after measuring the distances has reported that two residential houses in the occupation of Sri Jaru Pujary, son of Boggu Pujary and Deva Pujary, son of Somayya Pujary (House Nos.2/2 and 16) are within a distance of 200 yards from the tannery building. The actual distances are reported to be 556 and 549 feet respectively. If the distances are measured from the premises of the tannery building(boundary of the tannery site) they are reported to be much less than 556 feet and 549 feet referred to above. The appellant has thus violated the bylaws of the Dt.Bd. It will, therefore, be illegal to grant the licence to the tannery in question.

3) The appeal purports to be under section 198(b) of the District Boards Act. This section contemplates appeals under the places of public resort act on this ground also, the appeal is liable to rejection.

Sd: A. Mahalingam Chettiar,
Special Officer.

(TRUE EXTRACT)

25/5/54

SPECIAL OFFICER.

28/5/54

Encl 9.

19

Copy of letter dated 1-5-54 from Sri N. Krishna Bhat, B.A.,B.L. and Sri K.R. Karanth, B.A.,LL.B., Advocates, Mangalore, to the Special Officer, District Board, S.K.

To 1) Sri. A. Mahalingam, Chittoor, I.A.S. Special Officer, Dt. Bd. &c.
2) The District Board, S. Kanara, Mangalore.

Sir,

Under instructions from Messrs. Sequeira & Co., Hampankatta, Mangalore, represented by its Managing Partner, Mr. Sylvester Sequeira, we are sending you the following notice:-

On 9-7-1953, our clients sent in a petition to the Special Officer, South Kanara District Board for obtaining a licence for constructing and running a tannery in R.S.No.10 of Tiruvail village in Mangalore Taluk - a plot of land of about 50 acres in extent belonging to Mr. H.C. Colaco, one of the partners of the above company. The intention of the above Company was to manufacture chrome tanned sole leather in the said building. The District Health Officer inspected the locality and submitted a report to the Special Officer and on his recommendation, the Special Officer by order dated 16-9-53 granted the permission for the issue of a licence to our clients to construct and run a tannery in the aforesaid plot of land subject to the conditions that the building should be constructed as per the bylaws framed by the District Board for the purpose and that a two seater flush out pit latrine should be constructed for the workers at the site to be approved by the Health Inspector. The order further stated that a printed licence would be issued to the applicants on their furnishing an application in the printed form and on remitting the prescribed licence fee. Accordingly, on 21-9-1953 the Company furnished an application on the printed form and remitted the prescribed licence fee and on the same date the District Board issued to the Company Licence No. 302/53-54 for constructing and running a tannery in R.S. No.10 of Tiruvail village.

2. On the strength of the said licence, the Company got constructed a substantial and permanent building on the said plot of land at an enormous cost; the total expenditure incurred for the building is Rs.11,194-1-9. The building for running the tannery was completed early in November 1953 except a little plastering, a flush out latrine, filter and septic tanks which work would have been completed by the end of November 1953 at the latest. Strangely on 11-11-1953, orders were issued by the Special Officer, Dt.Bd. and communicated to our clients on 13-11-1953 to the effect that the order dated 16-9-1953 granting permission for a licence for constructing and running a tannery was held in abeyance and that the licencees were directed not to start any operations under the licence until further orders on the ground that the Provincial Welfare Fund committee had objected on account of its proximity to the T.B. Sanatorium. As stated above the operations had been started and the building had almost been completed by the time the said order of abeyance was communicated to our clients. Subsequently further operations were suspended on account of the said order. On 25-11-1953, our clients wrote to the Special Officer stating inter alia that the construction of the tannery was almost complete and that it had been constructed in accordance with the bylaws and that the tannery would not cause any nuisance or emanate any bad smell and that the objections by others were not well founded and praying that before orders were passed, a local inspection might be held. On 7-2-1954 orders were passed by the Special Officer, District Board, inter alia withdrawing the permission granted on 16-9-53 for the issue of a licence for the construction and running of a tannery and cancelling the licence No.302/53-54. The reasons as set out in the said order for withdrawing the permission and cancelling the licence are that the distance of the T.B. Sanatorium sites boundary line is about 920 feet from the proposed tannery and that the breeze is at times from the tannery site towards the Sanatorium. The said order is wholly illegal and ultra vires. The Special Officer having once granted the licence on the recommendation of the District Health Officer had no authority, justification or any valid reason to cancel the said licence, the more

~~to find the valid reason to cancel the said licence~~, the more so for the reason that the building which is of a permanent nature had been almost completed and expenses had been incurred for it - all on the strength of the licence granted. The reasons alleged by the Special Officer for cancellation of the licence are neither sound, tenable nor valid and just. The T.B. Sanatorium has not yet begun to function. The Special Officer was fully aware of the construction of the T.B. Sanatorium when the aforesaid licence was granted. Further the site of the Sanatorium is to the west of the tannery and it is on a much higher level than that of the tannery. Direction of the breeze also is only from the Sanatorium site towards the site of the tannery. Further, chrome tanning will not give out any foul smell. Besides, the tannery building has no windows and light and ventilation are provided for from the sky. The tannery will not therefore emit any foul smell and this has been confirmed to be so even by the Director of the Central Leather Research Institute, Adyar, Madras. It may also be stated that the site of the Sanatorium's nearest building is about 2000 feet from the tannery building and there is nothing objectionable for continuing the tannery. The reasoning of the Special Officer that the tannery is likely to be objectionable from the point of view of the health of the T.B. patients of the Sanatorium after the Sanatorium begins to function is not valid and proper. To cancel a licence on probabilities and presumptions is illegal and a negation of justice. Our clients not having even begun to run the tannery, the question of evasion of infringement of the restrictions, limitations and conditions of the licence granted do not arise at all when the licence was cancelled by the Special Officer. The Special Officer, Sri A. Mahalingam Chettiar is therefore personally also liable for the loss and damage sustained by our clients by his illegal and erroneous order. Highly aggrieved by the said order of the Special Officer, our clients filed an appeal to the District Board on 23-2-54 praying inter alia that the said order may be revoked and the licence may be restored; however the same person acting as the District Board rejected the appeal on 27-4-54 on insufficient and invalid grounds.

3. Our clients have thus sustained loss to the extent of Rs.11,194-1-9 by spending the said amount for the construction of the tannery which building cannot be now used for any other purpose. Further under ordinary circumstances if the licence had not been cancelled, the tannery would have begun to function at the latest by the beginning of December 1953 and the Company would have from that date made a monthly profit which under modest estimate would be Rs.500/- at the minimum. The total loss and damage thus sustained hitherto is Rs.11,194-1-9 plus Rs.2500-0-0(from 1-12-1953 upto 30-4-54) and further loss at Rs.500/- per month from 30-4-54. The District Board is legally bound to pay our clients all the said loss and damage together with Rs.25/- the cost of this notice. If the Dt.Board cancels the final order and revives the licence, in that event the District Board is bound to pay our clients the loss and damage sustained by our clients at the rate of Rs.500/- per month from 1-12-53 onwards and also the cost of this notice. These are the reliefs sought for by our clients. The said Sri A. Mahalingam Chettiar is also personally liable for the above claim.

The cause of action for this notice of claim by our clients arose partly on 11-11-53 when the order was passed holding in abeyance the order of 16-9-1953 as aforesaid and partly on 7-2-54 when the order was passed by the Dt.Bd. as aforesaid withdrawing the permission granted by order dated 16-9-53 and cancelling the said licence No.302/53-54 dated 21-9-53.

If therefore, within two months of the date of service of this notice, the above claims are not satisfied, a civil suit will be instituted by our clients against you for seeking the necessary reliefs.

Sd: N. KRISHNA BHAT
&
K. R. KARANTH.

(TRUE COPY)

25/5/59

SPECIAL OFFICER.

25.5.59

residents of the local by objecting to the grant of licences in favour of the applicants. Where objections are received and a consequence of the objections refused, the executive authority may if necessary to cancel the grant. Such cases arise often when the licence grant affects the public interest etc. The reasonable authority or persons affected by the grant of a licence have a right to object to the grant and can appeal to the Licensing Board. The Board has every right to cancel the licence previously granted if necessary in the interest of the public who obtain the licence have received substantial benefits or the business may have incurred any expenses in connection with the trade. If those who obtain a licence in the first place incur any loss they do so at their risk subject to the contingency of their licence being cancelled. If this is not so, the executive authority who grants a licence will run a grave risk of paying damages, if for any reason the licence is cancelled. Such a course would convert cases where the District Board or the electoral body exercise discretion different from the one of the executive authority who revokes the licence. If the executive authority are to be liable, they may as well where the District Board exercise the licence granted by the executive authority may be the real authority tribunal, the executive authority may be the real authority local body can be held liable for damages to the parties on whom the licence has been granted by him on account of any grant by them in connection with the trade either by way of structural buildings or otherwise. The applicants, in our opinion, cannot have any such right against the executive authority, to claim damages. If at all their remedy is to challenge the decision of the executive authority in the District Board in a Civil Court and obtain a mandatory injunction cancelling the executive authority or the local authority granting a licence. The applicants in the present case have not even applied for a licence. They have spent money for construction of building and have incurred any loss or that they would be entitled to any profit, had the licence been granted to them. Even if any individual to pursue a trade and obtain a licence is always to reasonable restrictions that may be imposed by local law. They cannot have any claim for damages because the licence was cancelled subsequently. Besides, the licence in this case has been granted to run a tannery for the period from 21-6-1963 up till 21-6-1964. Even if the applicants have started that they may commence the trade only in the end November, 1963. The guarantee is given that the licence will be renewed year after year and hence they will get a period of 5 years. The local officer entered into an agreement with the applicants stating that they would be allowed to run a tannery for all these years. These agreements are irrevocable. There is no legal basis whatsoever to claim the valuable profit which they have put under the licence granted by the authorities. Even if the licence is not granted by the authorities, the applicants may have incurred some loss, they may have spent some money for nothing. The claim put forward appears to be fantastic and unbelievable. The decision of the executive authority in granting the licence. The petitioners cannot be held liable for such a claim.

[illegible] ... vexatious claim [illegible] ... appointed by the Government.

I may also point out that section ?5 clause 4 of the Madras District Boards Act provides that suits or legal proceedings cannot be brought against the Executive Authority, or any member, or officer or servant of a District Board if any neglect or default was made in good faith and that in such cases the proceedings as far as it is maintainable in a Court of law should be brought only against the District Board. From this point of view also Messrs. [illegible] & Co. cannot have any cause of action against the Special Officer. The Special Officer can also claim protection under section 46 of the Madras District Boards Act and can recover compensation from the District Board Funds, if he suffers damages on account of what he has done in this case as Special Officer.

A reply may be sent repudiating the claim put forward in the notice in toto both against the Special Officer personally and against the District Board.

All the records sent with your letter are returned herewith.

Yours faithfully,

[signature]

Enc: All the records.

Extract from the Proceedings of the Meeting of the Special Officer, District Board, South Kanara, dated 25.5.1954.

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26. Read Suit notice dated 1.5.54 from Messrs.N.Krishna Bhat and K.R.Karanth, Advocates, Mangalore on behalf of Messrs. Sequeira & Co.,claiming damages and loss suffered by their clients on account of the cancellation of the licence granted to them, sent to the Special Officer, personally and the Disitrict Board.

Orders of the Special Officer, referring the notice with the connected records to Sri B.M.Hegde, Advocate.

Also legal opinion furnished by the Advocate.

Also draft replies to the suit notice sent by the Advocate.

Also resolution No.43 of the District Board, dt.24.4.54

Also office note stating that necessary expenditure may be sanctioned in connection with legal proceedings which may be takenagainst the Special Officer and the Dt.Board.

Resolution:"The suit notices are recorded. The action of the Special Officer in having referred the matter for legal opinion is approved. Draft replies on behalf of the Special Officer and the Dt.Board sent by the lawyer to the suit notices are approved. The District Board resolutions to defend the suits if they are filed by the notice given against the Special Officer personally and or otherwise or against the Dt.Board and sanctions the necessary expenditure which may be incurred on this behalf. The matter will also be reported to the State Government for the approval of the action of the Special Officer and the Dt. Board.

Sd.A.Mahalingam Chett
Spl.Officer.

/true extract/

Special officer 25/5/54

[illegible] it proper to cancel the same on a subsequent date, particularly in the case in question extremely doubtful whether the applicants could really put up a building at such an enormous cost within the period mentioned by them. It is also significant that the applicants themselves have stated in the application made by them on 21-8-1953 that they may be granted a licence for the use of a tiled building, implying thereby that there is already one in S.No. 10 of Tiruvail village, Mangalore taluk. If the recitals made in the application are correct, the building had been put up by them even before the licence was granted in their favour. Apart from this, we find in this case, that petitions had been filed by the Secretary of the Madras Provincial Welfare Fund, South Kanara Branch as well as by the residents of the locality objecting to the grant of the licence in favour of the applicants. These objections have not been disposed of. As a consequence of the objections raised, the Executive Authority found it necessary to cancel the licence granted. Such cases arise often under the licence granted under the Public Resort Act. The residents of a locality or other persons affected by the grant of a licence have a right to object to the grant and can prefer an appeal to the Local Board. The Board has every right to cancel the licence previously granted irrespective of the fact whether the parties who obtain the licence have erected substantial buildings or not or whether they have incurred any expenses in connection with the trade. If those who obtain a licence in the first instance incur any loss they do so at their risk subject to the contingency of their licence being cancelled. If this is not so, the Executive Authority who grants a licence will run a grave risk of paying damages, if for any reason the licence issued by him is cancelled. Even otherwise we could conceive cases where the District Board or the elected body comes to a conclusion different from the one of the Executive Authority and revokes the licence. If the contentions of the applicants are tenable, in every case where the District Board cancels the licence granted by the Executive Authority as an appellate tribunal, the Executive Authority namely the President of a local body can be held liable for damages to the parties to whom the licence has been granted by him on account of any sum spent by them in connection with the trade either by way of putting up buildings or otherwise. The applicants, in my opinion, cannot have any such right against the Executive Authority, to claim damages. If at all their remedy will be to challenge the decision ~~of the Executive Authority~~ of the District Board in a Civil Court and obtain a mandatory injunction compelling the Executive Authority or the Local Board to grant a licence. No amount can be claimed on the ground that the applicants have spent money for the construction of the building or they have incurred any loss or that they would have gained any profit, had the licence been granted to them. The right of any individual to pursue a trade and make gain is subject always to reasonable restrictions to be imposed by legislation. They cannot have any claim for damages ~~to the~~ only because the licence was cancelled subsequently. Besides, the licence in this case has been granted to run a tannery for the period commencing from 21-8-1953 up till 31-3-1954. Even in the application it is stated that they may commence the trade only at the end of November, 1953. No guarantee is given that the licence would be renewed year after year nor has the District Board or the Special Officer entered into an agreement with the parties stating that they would be allowed to run a tannery for all times to come irrespective of any other consideration. There is no legal basis whatsoever to claim the value of buildings which they have put up, or the probable profit which they would have got had the licence been granted to them or the future loss, which they say they would incur at the rate of Rs. 500/- per month. The claim put forward appears to be fantastic and untenable. This seems to have been done with a view to coerce the grant of the licence. The District Board cannot be held liable for such a claim.

forwarded [illegible] the Special Officer personally is also to be characterised as a frivolous and vexatious one. As stated above, even the applicants do not go to the extent of saying that he has not acted in good faith and in the best interest of administration. This seems to have been done with the object of coercing the Special Officer and the District Board to grant the licence. Such conduct on the part of those who apply for licences and who fail to obtain licences should not be tolerated. They should be informed that in case they pursue the matter and institute legal proceedings they will be held liable to pay compensatory costs under section 35 A of the Civil Procedure Code for frivolous and vexaticus claim against and that they shall be also further held responsible to additional damages for prosecuting such a vexatious claim against the Collector-Special Officer appointed by the Government.

I may also point out that section 220 clause 4 of the Madras District Boards Act provides that suits or legal proceedings cannot be brought against the Executive Authority, or any member, or Officer or servant of a District Board if any neglect or default was made in good faith and that in such cases the proceedings as far as it is maintenable in a Court of law should be brought only against the District Board. From this point of view also Messrs. Sequeira & Co. cannot have any cause of action against the Special Officer. The Special Officer can also claim protection under section 46 of the Madras District Boards Act and can recover compensation from the District Board Funds, if he suffers damages on account of what he has done in this case as Special Officer.

A reply may be sent repudiating the claim put forward in the notice in toto both against the Special Officer personally and against the District Board.

All the records sent with your letter are returned herewith

Yours faithfully,

Enc: All the records.

Extract from the Proceedings of the Meeting of the Special Officer, District Board, South Kanara, dated 26.5.1954.

26. Read Suit notice dated 1.5.54 from Messrs.N.Krishna Bhat and K.R.Karanth, Advocates, Mangalore, on behalf of Messrs. Sequeira & Co., claiming damages and loss suffered by their clients on account of the cancellation of the licence granted to them, sent to the Special Officer, personally and the Disitrict Board

Orders of the Special Officer, referring the notice with the connected records to Sri B.M.Hegde. Advocate.

Also legal opinion furnished by the Advocate.

Also draft replies to the suit notice sent by the Advocate.

Also resolution No.43 of the District Board, dt.24.4.

Also office note stating that necessary expenditure may be sanctioned in connection with legal proceedings which may be taken against the Special Officer and the Dt.Board.

Resolution: "The suit notices are recorded. The action of the Special Officer in having referred the matter for legal opinion is approved. Draft replies on behalf of the Special Officer and the Dt.Board sent by the lawyer to the suit notices are approved. The District Board resolutions to defend the suits if they are filed by the notice given against the Special Officer personally and or otherwise or against the Dt.Board and sanctions the necessary expenditure which may be incurred on this behalf. The matter will also be reported to the State Government for the approval of the action of the Special Officer and the Dt. Board.

Sd.A.Mahalingam Chett
Spl.Officer.

/true extract/

Special officer 25/5/54

[redacted] in the application made [redacted] on 21-9-[redacted]
[redacted] granted a licence for the use of [redacted] land
[redacted] there is already one L.P.No. 10 of Chamundi Village. [redacted]
[redacted] statement made therein is true no building could [redacted]
erected on the strength of the licence granted to [redacted]
[redacted] not be, the cancellation of the licence has been done by
[redacted] Officer in proper exercise of the powers vested in him.
In any view of the case your clients cannot hold the Special [redacted]
responsible for payment of the value of the building alleged to
have been erected or for the probable profits which your clients
will be able to make by running the trade or for any loss which
may accrue to your clients by reason of the licence being refused
After all the Local Board has discretion either to refuse or to
grant the licence for running such a trade as your clients desire
to run. While upholding the order of cancellation, it is not
necessary for the Local Board to confine itself to the grounds
mentioned in Section 212 clause 5 of the District Boards Act nor
is the Local Board bound to take into consideration that the
licensee has erected any building in pursuance of the licence
granted to him. In any view of the situation, the Special
Officer who has legitimately exercised the functions of the
Executive Authority cannot be held responsible for payment of
any damages to your clients on account of erection of any building
etc. or on account of their not being able to run the trade.

5. I would further draw your pointed attention to the provisions contained in section 225 clause 4 read with section 46 of the District Boards Act. Under the said provisions, the proceedings as far as it is maintenable in a Court be brought against the District Board alone and not against the Executive Authority. Even with regard to the complaint of your clients that the Special Officer has himself rejected the appeal preferred to the District Board, I must refer you to the provision contained in section 2 clause 3 of Act V of the Madras District Boards (Amendment) Act, 1953, which provides for the appointment to every District Board a Special Officer to exercise the power discharge the duties, perform the functions of the District Board, etc. The State Government also while appointing the Special Officer has empowered him to exercise the powers, discharge the duties and perform the functions of the District Board (vide G.O. 1368 L.A., dated 22-6-1953). It cannot, therefore, be said that he has acted in excess of the powers vested in him while disposing of the appeal preferred by your clients. Despite those facts, if your clients still feel that they have a grievance they are at liberty to move the State Government for cancelling the resolution of the District Board. But under no circumstances can they have any claim or right of action against the Special Officer personally. The quantum of damages claimed is fantastic. The claim itself has no legal basis at all.

Notwithstanding these facts if your clients deem it fit to forward a claim against the Special Officer personally, be it noted that they will be held liable for payment of compensatory costs and for damages for prosecuting a vexatious claim. I trust that your clients will not rush to a court of law and put forward any such claim against the Special Officer personally.

Yours faithfully,

Sd. B.M. Hegde

True copy:

25/6/54

Special Officer

A. HEGDE, B.A., B.L.,
ADVOCATE.
--oOo--

Mangalore - 2.
/8-5-1954.

To
Sri H. Krishna Bhat, B.A., B.L., &
Sri I. R. Varanth, B.A., LL.B.,
Advocates, Mangalore.

Dear Sirs,

The notice issued by you to the District Board, South Kanara on behalf of your clients Messrs. Sequeira & Co., Kannangatta, Mangalore has been placed in my hands with all the connected papers to reply

I have gone through the records sent in this connection by the District Board. I find that the facts contained in your notice are not correct and that they have not been stated in full. The facts as disclosed from the records are that on 9-7-1953 your clients wrote a letter to the Special Officer requesting the grant of a licence to construct and run a tannery in field No. 10 of Tiruvail village, Mangalore taluk. The letter was forwarded to the District Health Officer, South Kanara for remarks. On the retransmission of the letter the Special Officer passed an order on 16-9-1953 directing the grant of a licence subject to certain conditions. Your clients applied for the licence and the licence was granted to them on 21-9-1953.

One Sri D. Mohan Rao, Secretary of the Madras Provincial Welfare Fund, S. K. Branch as well as certain residents of Tiruvail and Thudushedde villages preferred petitions dated 19-10-1953 objecting to the grant of a licence. In view of the objections the Special Officer passed an order on 11-11-53 Holding in abeyance his previous order directing the grant of the licence. Your clients then wrote a letter dated 25-11-53 intimating that they intend to run the tannery only as a cottage industry and the Special Officer may hold a local inspection after giving due notice to them and satisfy himself before passing further orders. The Special Officer held a local inspection and heard representations. Finally he passed an order dated 7-2-1954 cancelling the licence. Against this order your clients preferred an appeal petition dated 23-2-1954 The appeal petition was rejected by a resolution of the District Board dated 24-4-1954. Thereafter your clients have chosen to send through you the notice under reply.

In the notice you state inter alia that the order passed by the Special Officer on 7-2-1954 is wholly illegal and ultra vires and that the Special Officer having once granted the licence on the recommendation of the District Health Officer had no authority, justification or any valid reason to cancel the said licence etc. I have to point out in this connection that the ultimate authority to grant or revoke a licence is not the District Health Officer nor this recommendation always binding on the executive authority, whose power is now vested in the Special Officer. The Special Officer in this case had held a local inspection as desired by your clients and heard the representations from your clients as well as from those who objected to the grant of licence. From the enquiry, the Special Officer found that all the materials were not placed before him or brought to his notice [redacted] your clients against the grant of licence [redacted] licence was made to [redacted]

passed by the Special Officer has been upheld. Your clients' appeal has been rejected. The reasons for upholding the order passed by the Special Officer are set out in the resolution itself, a copy of which has been communicated to your clients. You will find therefrom that the District Board was prompted by consideration of public health, the interests of the residents of the locality and the failure on the part of your clients to adhere to the by-laws framed by the District Board. The reasons given by the District Board are not at all insufficient or invalid as sought to be made out in your notice.

It is stated in your notice that the appeal petition was rejected bythe Special Officer himself acting as the District Board suggesting thereby that the Special Officer cannot exercise the powers of the District Board and dispose of the appeal. You will permit me to draw your attention to the provisions contained in Act V of the Madras District Boards (Amendment) Act, 1952, and also the order of the State Government appointing the Special Officer to be in charge of the District Board. The order appointing the Special Officer specially mentions that he shall exercise the powers, discharge theduties and perform the functions of the District Board. I may also further bring to your notice that the Special Officer before exercising the powers of the District Board in this case has obtained legal opinion and it is only after he was advised that he could exercise the powers of the District Board he has, sitting as the District Board, dealt with the appeal preferred by your clients.

In your notice you have put forward a claim for damages against the District Board. The claim put forward is to say the least, untenable and is of a vexatious nature. The decision of the District Board in refusing to allow your clients to run a tannery in the premises in question cannot be considered as arbitrary or perverse on any account whatsoever. The discretion which is vested in the District Board in granting or refusing to grant a licence or in disposing of the appeal preferred by your clients has been properly exercised and for very good reasons. Under these circumstances your clients are not entitled to proceed against the District Board or the Special Officer by any Civil Suit, much less, can they claim damages for the value of building alleged to have been put up by them or for any probable profit which they would have got had the licence been given, or for any loss which according to them they are likely to sustain hereafter. Even in the first instance the licence has been granted only for the financial year 1953-54. In the application made it is stated that the licence is sought for the premises containing a building, implying thereby that the building was already in existence on the date of the application. It is hard to believe that the building could come into existence within a short period from 21-8-1953 to 11-11-1953 as alleged by your clients. Whatever that be, the remedy of your clients, if any, is to move the State Government and have the resolution of the District Board cancelled as provided under section 38 of the District Boards Act, in case they still feel notwithstanding the facts stated above that the resolution of the District Board is not proper or is defective on any account. Keeping these facts, if your clients rush to a court of law against the District Board please note that such proceedings will be defended at their risk.

Yours faithfully,

B. Venkatachari

HCA
HD

Subj: Licence. Dakshin
South Kanara Dt - Establishm
of a tannery near Mudushedd
and Jirwail villages -
Objections against - Cancellati
of the licence - Suit notice
against.

x

Ref: From the Sp South Kanara
Dt Rd, Reg C.No C3/2539
dt 23/5/54

x

Memo No: 54848-Hf Health dt 31-5-

referred to the D.P.H
for urgent remarks. He is
requested to send his reply
thro the D.M.S.

21/5

28/5/54
28.5.54

31/5/54

do the D.P.H
(with ref to the letter to be noted with a reply)
copy to the DMS

Thro
H/IV req'x'on
p4cf)

29.5.54
29.5.54

PUBLIC HEALTH DEPARTMENT.

HS 47

From

Dr.T.S.Adisubramaniam, D.I.H.,Eng.,
Director of Public Health,
Madras.

To

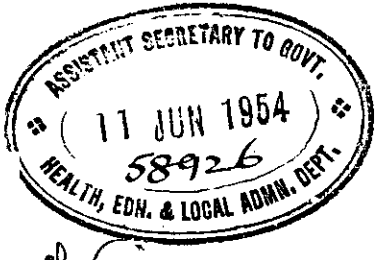
The Secretary to Government,
Health, Education & Local
Administration Department,
Fort Saint George, MADRAS.

Through
The Director of Medical Services,
Madras.

D.No.125-HYG-(2)54 dated 7-6-54.

Sir,

Sub:-LICENCE - Dangerous and Offensive trades - South Kanara District - Establishment of a tannery near Mudushedde and Tiruvail villages - objections against - cancellation of the licence - suit notice - against.



Ref:-Govt.Memo.No.54858-H/54 Health d/31-5-54.

--:--

I invite the attention of Government to this office letter L.Dis.94077-5-HYG-3-53 dated 1-4-54. As stated therein, it is not desirable to permit the establishment of a tannery so close to the T.B.Sanatorium. The action of the special Officer and the District Board may be approved.

2. The enclosures received with the above Government Memorandum are herewith returned.

Yours faithfully,

10/6/54

for DIRECTOR OF PUBLIC HEALTH,MADRAS.

sb.

49 - HEA
HV

Sub Licence Dt. Hides —

South Kanara Dt. Establishment
of a tannery at Mudushedde
and Tirwail villages.
Objections against the
Cancellation of licence

—— x ——

p47g Ref: from the DPH & NO. 12-5 Hyg (2)/54 dt 7.6.54

—— x ——

Memo 5948 HV/54-2-Health dt 16/6/54

It has been represented to the
Govt that the tannery/factory near Mudushedde
- T.B. Sanatorium is a small
one fitted up with modern
sanitary arrangements such as
septic tank and covered drainage

P.T.O

DF 16/6

B on p 2 n.f.

=2= 50

drainage, that it is meant for tanning chrome leather' and that it is the opinion of some experts that there is no chance of any foul smell emanating therefrom. The D.P.H is requested to inspect the tannery premises personally and submit a report to Govt whether the factory may be allowed to work or stopped completely.

1 P' Comp 2 n.f.

15/6/54
15-6-54

16.6.54

To ~~the D.T.P~~
The D.P.H.

DP'
9.r
16/6

KUMARAMANGALAM,
B. A., (CANTAB).
ARRISTER-AT-LAW

TELEGRAMS : "CAPACITY"
TELEPHONE NO. 2611
ANDHRA INSURANCE BUILDINGS.
237, THAMBU CHETTY STREET MADRAS 1.

MINISTER FOR HEALTH 18 JUN 1954 GOVERNMENT OF MADRAS

Dated 18th June 1954.

Secy. H.E. & L.A.

1088

Sri.A.B.Shetty,
Minister for Health,
Government of Madras,
Fort St.George,
Madras.

SECRETARY TO GOVERNMENT 18 JUN 1954 HEALTH, EDN. & LOCAL ADMN. DEPT.

Dear Mr.A.B.Shetty,

In connection with the talk I had with you yesterday, I enclose herewith a memorandum submitted on behalf of Messrs. Sequeira & Co., Hampenkatta, Mangalore, South Kanara District, in relation to the cancellation of the license for the building and running a tannery.

I would request you to expedite a favourable decision in the matter.

Thanking you,

Yours sincerely,

Encls:
One Memorandum.

N KUMARAMANGALAM,
B. A., (CANTAB).
BARRISTER-AT-LAW

TELEGRAMS : "CAPACITY"
TELEPHONE NO. 2611
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I would request you to expedite a favourable decision in the matter.

Thanking you,

Yours sincerely,

Encls:
One Memorandum.

MEMORANDUM TO THE HON'BLE MINISTER FOR HEALTH,
GOVERNMENT OF MADRAS, FORT ST.GEORGE, MADRAS
BY MESSRS SEQUEIRA & COMPANY, HEMPENKATTA,
MANGALORE.

SUB: REQUEST TO SET ASIDE THE ORDER OF THE DISTRICT BOARD SOUTH KANARA REJECTING THE APPEAL OF MESSRS SEQUEIRA & CO. AGAINST THE CANCELLATION OF THEIR LICENCE FOR THE RUNNING OF A TANNERY BY THE SPECIAL OFFICER OF THE DISTRICT BOARD, SOUTH KANARA.

1. On 9.7.1953 Messrs Sequeira & Company, Mangalore applied to the Special Officer, District Board, South Kanara for a license to construct and run a tannery in field No.18, Tiruvail Village, Mangalore Taluq.

2. This application, according to the usual procedur was sent to the District Health Officer, South Kanara and received his endorsement by his No.Dis.No.2481-53 dated 14.8.1953. Consequent to the receipt of the endorsement of the District Health Officer. the Special Officer, District Board, South Kanara by his B.Dis.15538-53 dated 16.9.1953 granted permission to M/S Sequeira & Company to construct and run a tannery in S.No.10, Tiruvail Vill[redacted], Mangalore Taluq. On 21.9.1953, the formal license to run the tannery was granted.

3. In accordance with the grant of the license, M/S Sequeira & Co. proceeded with the construction of the building for the Tannery and by the beginning of November 1953, had virtually completed the entire construction, apart from a little plastering, flush out latrines, filter tanks and septic tanks, which work would have been completed by the end of November 1953. The entire expenditure in constructing this permanent building amounts to Rs.11,194/1/9.

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4. However on 11.11.1953, orders were suddenly passed by the Special Officer, District Board to the effect that the Order dated 16.9.1953 granting permission to M/S Sequeira & Company for constructing and running a tannery was held in abeyance and the licensees were directed not to start any operation of the tannery under the license granted to them, until further orders were passed by the District Board.

5. On 7.2.1954 the Special Officer, District Board, South Kanara passed Orders cancelling the license, a copy of which order is enclosed herewith as Appendix "A".

6. By this Order the Special Officer found that the objections to the building of the tannery raised by certain villagers who had submitted petitions were without foundation. However, he held that a Tuberculosis Sanatorium was being built nearby, according to him, at a distance of 920 feet from the proposed tannery. Moreover, in his judgment, the direction of the breeze is at times from the tannery site towards the Sanatorium site, and therefore it is not advisable to allow a tannery in the neighbourhood and vicinity of a Tuberculosis Sanatorium. As a consequence he withdrew the permission granted in his proceedings dated 16.9.1953 and cancelled the license granted on 21.9.1953.

7. Messrs Sequeira & Company filed an appeal dated 23.2.1954 to the District Board, which appeal was also dismissed by the District Board by its Order dated 27.4.1954. (Appendix B)

8. It is in this order, filed as Appendix "B", peculiarly enough that a new additional reason has been given for the cancellation, namely that there are two residential houses, which are situated within a distance of 200 yards from the proposed tannery site and therefore there is a contravention of by-law No.1, which requires that no premises used for tanning shall be within 200 yards of any human habitation.

9. Messrs Sequeira & Company submit that the Order of the Special Officer later confirmed by the District Board is thoroughly illegal and ultravires for the following among other grounds:- Mh 63-64 infra

(a) The Special Officer of the District Board has unjustly taken into consideration the fact that the tannery is within 920' when as a matter of fact, the site of the Sanatorium's nearest building is about 2,000 feet from the tannery building and there is no conceivable reason to believe that a tannery situated about 2,000 feet from the T.B.Sanatorium will affect the health of the patients. It should also be stated here that the T.B. Sanatorium has not yet started functioning.

(b) Further the site of the sanatorium is to the west of the tannery and it is on a much higher level, than that of the tannery. The sea is situated to the west of the sanatorium and tannery and the sea breeze will blow from west to east.

(c) In the tannery itself, only chrome tanning of buffalo skins will be carried out and M/S Sequeira & Co have ascertained from the Director of the Central Leather Research Institute, Adyar, Madras that when chrome tanning of buffalo hides is carried on, there will be no foul smell. To quote the exact words of the Director of the Central Leather Research Institute, Adyar, Madras (given in his letter No.79GT(14) dated 17.4.1954:

> "As only chrome tanning of buffalo hides is going to be done in which no old lime liquor will be used and as ventilation and lighting will be provided from the sky, we do not think the place will emit a foul smell. It is proposed to bury the lime fleshings. Such burying may cause bad smell. Instead of that fleshing should be spread out in the sun and dried. Dry fleshings are used for making glue and are saleable. Use of bleaching powder in the drain, down which tannery effluent will be run, will also prevent foul smell"

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(d) Further more there is no rule that directs that a tannery cannot be built near a Sanatorium. It is only stated that no residential quarters should be situated within ~~2,000'~~ 200 yards from the tannery, and clearly that holds good for tabuerculosis Sanatoria and any other residential structures.

not put up (e) G.O.MS.3096, dated 3rd October 1952, only deals with the question of allotment of Government vacant lands in the vicinity of tuberculosis sanatoria and has no appli cation to patta lands in individual ownership; thus this G.O.has nothing to do with the building of a tannery in the vicinity of a tuberculosis Sanatorium.

pp 63 64 infra (f) The District Board's resolution which deals with the question of residences occupied by families being within 200 yards of the tannery is obviously malafide; firstly this is the first occasion on which it has been raised; secondly one of the houses mentioned, which is at a distance of 580' from the tannery is occupied by the watchman of the company, who will be shifted from this hut, as soon as the tannery is ready and starts working. The other "house" mentioned is only a cattle shed and not a place where human beings reside. Thirdly this reason has been added by the Special Officer as an after thought simply to strengthen what he himself must have felt to be a weak case. It may be noted that the Special Officer had gone to the site and inspected the same without the knowledge of M/S Sequeira & Company or the District Health Officer, who after satisfying himself fully, approved the grant of the original license by his endorsement dated 14.8.1953.

(g) The weakness of the position taken by the Special Officer is made clear when one goes through the reply sent by his Advocate to the Advocate of M/S Sequeira & Company dated 18.5.1954 to a legal notice served on the Special Officer for damages. The Special officer who had earlier

pp 41-43 ante

(in Appendix 'A') clearly stated that construction of the tannery would not affect the interests of the residents of the locality, now pleads this as one of the reasons for cancellation of the licensee.

(h) The Special Officer's allegation that "the full and true facts of the case were not brought to his notice" (contained in paragraph 2 of Appendix 'A') is not correct in that the proposal to construct a building for the T. B. Sanatorium was known at the time of the grant of the license in September 1953 and the District Health Officer had himself noted this point and asked the Special Officer to satisfy himself about this. The Special Officer granted the license only after this and for him now to indirectly allege that Messrs. Sequiera & Co.,had suppressed the truth only further shows the prejudiced mind and unfair treatment that Messrs. Sequiera & Co., had to meet with from the Special Officer.

(i) The Special Officer in cancelling the license on a ground which finds no place at all in the by-laws regarding Industrial control of tanning hides and skins made by the District Board, South Kanara in its notification under Section 205-A of the Madras Local Boards Act dated 29th May 1946, has acted illegally and ultra vires of the powers vested in him. Further even if the by-laws had been violated which is only alleged in this case, in the order of the District Board referring to the contravening of bye-laws No.1, such violation can only take place after the starting of the Tannery and further for such violation, the penalty is not cancellation of the license but prosecution and punishment.

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(j) The Special Officer in cancelling the license on grounds outside the scope of the Act, and bye-laws made under the Act particularly when the applicant, Messrs. Sequiera & Co., had fulfilled all the bye-laws so far as the construction of the building was concerned, acted arbitrarily and contrary to law and natural justice.

10. Under the circumstances Messrs. Sequeira & Company submits that the action of the Special Officer, District Board, South Kanara and the District Board of South Kanara in cancelling the license is highly unjust and illegal and has caused great harm as well as expenditure to the company, who have already invested a considerable sum of money on the basis of the original license granted to them.

11. Messrs. Sequeira & Company therefore pray that the Government may be pleased to exercise the power vested in them, under Sec.38 of the Local Boards Act, and SET ASIDE the order of the Special Officer, District Board, South Kanara in his Ref.C.No.C3-25398/53 dated 7th February 1948 (Appendix 'A') further confirmed by the resolution of the District Board, South Kanara, dated 27th April 1954 (Appendix 'B') and grant the license to construct and run the Tannery to Messrs. Sequeira & Company.

S. Mohan Kumaramangalam
ADVOCATE
ON BEHALF OF MESSRS. SEQUEIRA AND COMPANY, HAMPENKATTA, MANGALORE.

Address for Service of all Notices:

S. MOHAN KUMARAMANGALAM
Barrister-at-law,
"Andhra Insurance Building", No.337, Thambu Chetty Street,
Madras-1.

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PROCEEDINGS OF THE SPECIAL OFFICER, DT.BOARD, S.KANARA
SRI A.MAHALINGAM CHETTIAR, I.A.S.

D.DIS.15538-53 Dated 16.9.1953.

SUB: LICENCE-Dangerous & offensive trades - Mangalore Taluq Tiruvail village - S.No.10 - Tannery - construction of a building - issue of - orders passed.

READ the following:

1. Application dated 9.7.53 from the Partner Sequiera & Co General Merchants, Mangalore.
2. Endt. of the Dt.Health Officer, South Kanara, N.Dis. No.2481-53 dated 14.8.1953.

O R D E R.

As recommended by the District Health Officer, South Kanara permission to construct and run a tannery in S.No.10 Tiruvail village, Mangalore Taluq is granted to the applicant Messrs Sequiera & Co. General Merchants, Hampankatte, Mangalore subject to the following conditions:

1. Buildings should be constructed as per by-lawas framed by the District Board for the purpose.

2. A two seater flush-cut pit latrine should be constructed for the workers at the site to be approved by the Health Inspector.

2. A printed licence will be issued to the applicant on his furnishing an application in the printed form and on remitting the prescribed license fee.

Sd.....
Spl. Officer.

Appendix "A 61

PROCEEDINGS OF THE SPECIAL OFFICER, DIST.BOARD, S.KANARA.

SRI A.MAHALINGAM CHETTIAR, I.A.S.

REF.C.NO.C3-25398/53. Dated: 7.2.1948. 54

SUB: LICENSE-Dangerous & Offensive Trades - Managlore Taluq - Tiruvail village - S.No.10 - Tannery - Construction - grant of - objections - orders passed.

READ THE FOLLOWING:

1. Letter dt.14.10.53 from the Secretary, Madras Provincial Wel fare Fund, S.Kanara Branch, Mangalore.
2. Petition dated 19.10.1953 of the residents of the Tiruvail and Mudushedde village of Mangalore Taluq.
3. Copy of letter dated 8.11.1953 from the Secretary, The Madras Provincial Welfare Fund, S.Kanara Branch, Mangalore, addressed to the Hon'ble Minister for Healty, Govt. of Madras at Mangalore camp.
4. This office proceedings Ref.25398/53/ dated 11.11.53.
5. Inspection Notes dated 28.1.1954 of the Special Officer, District Board, South Kanara.
6. This office proceedings D.Dis.15538/53 dt. 16.9.1953
7. Licence No.302/53 - 54 dated 21.9.1953.

In this office proceedings D.Dis.15538/53 dated 16.9.1953 permission to run a tannery in S.No.10 of Tiruvail Village, Mangalore taluq under Sec.193 of the Madras Dist. Board Act 1920 (as amended) was granted to Messrs Sequeira & Co Merchants, Mangalore under certain conditions. It has been brought to the notice of the Special Officer, District Board, by the Secretary of the Dist.Provincial Welfare Fund, South Kanara Dist.Branch, Mangalore that the working of a tannery at the site which is within a radius of two miles from the Mudusheede T.B.Sanatorium will be highly objectionable and prejudicial to the health of the patients of the Sanatorium. Some local people have also objected to the running of a tannery alleging that the tanning operations are likely to contaminate (of) water sources in the locality by the washing of hides and skins.

2. The Special Officer, afer a local inspection of the site and the tannery buildings and the site on which the T.B. Sanatorium stands at which the office-bearers of the District Provincial Welfare Fund, the Dt.Medical Officer, the Dt.Health Officer, M/S B.V.Baliga, M.L.A., L.C.Pais, M.L.A. and the first signatory to the objection petition were present, finds that the objections raised on the ground of contamination of water sources is unsustainable and far-fetched. But the objection pressed before him by the Secretary of the Dt. Provincial Welfare Fund however deserves special consideration in the interests of the patients who will be undergoing treatment at the Sanatorium when the Sanatorium begins to function. The distance of the Sanatorium site's boundary line is only about 920 Ft. from the propossed: tannery. The direction of the breeze is at times from the tannery site towards the Sanatorium site. The full and true facts of the case were not brought to the Special Officer's notice when permission was granted to the applicant. After taking into consideration all the facts now brought to the notice, the Special Officer is of opinion that in public interests it is not desirable to permit a tannery to operate in the neighbourhood or vicinity of the T.B.Sanatorium.

He, therefore hereby withdraws the permission granted in this office proceedings D.Dis.No.15538/53 dated 16.9.1953 and cancels the license No.302/53-54 dated 21.9.1953 granted to M/S Sequeira & Co.Mangalore to work the tannery.

Sd. for Special Officer.

Appendix "B" 63

PROCEEDINGS OF THE SPECIAL OFFICER, DIST.BOARD, SOUTH KANARA
SRI A.MAHALINGAM CHETTIAR, I.A.S.

REF: C.NO.25398-53-C3 Dated 27.4.1954

SUB: LICENSE - D.&.O.Trades - Mangalore taluq- Tiruvail village - S.No.10-Tannery - grant of - appeal rejected.

READ: Appeal petition dated 28.2.1954 from M/S Sequiera & Compa General Merchants and Tanners, Mangalore 1.

Your appeal dated 23.2.1954 against the Orders passed by the Special Officer, Dt.Board in his Ref.C.C3/25398-53 dated 7.2.1954 has been rejected by the Dt.Board. A copy of the resolution of the Dt.Board is enclosed.

Sd.....
FOR SPECIAL OFFICER.

To
M/S Sequeira & Co.General Merchants and Tanjore
Hampankatta, Mangalore 1.

RESOLUTION: "The District Board sees no reason to interfere with the orders of the Special Officer, ROC.No.C3-25398-53 dated 7.2.54 withdrawing the permission and cancelling the license granted to Messrs Sequeira & Company, Mangalore, to run a tannery in S.No 10 of Tiruvail Village, Mangalore taluq and accordingly rejects the appeal preferred by M/S Sequeira & Co. for the following reasons:-

1. The working of a tannery near the T.B.Sanatorium will be injurious to the public interest. The distance of the Sanatorium boundary line is only 920 feet from the premises of the building proposed to be used for running the tannery. The direction of the breeze at times is from the side of the tannery site towards the Sanatorium site. Offensive smell will emanate from the tannery which is injurious to the health of the inmates of the Sanatorium;

2. One of the conditions under which the Special Officer granted permission to the appellant in this office D.Dis.15538-53 dated 16.9.53 was that the tannery building should be constructed as per the by-Dist.Board requires that no premises used for storing and otherwise dealing with hides or skins or for tanning hides or skins shall be situated within 200 yds. of any human habitation. The Secretary of the Dist.Board after measuring the distances has reported that two residential houses in the occupation of the Sri Jaru Pujary, sonof Boggu Pujary and Deva Pujary, son of Smayya Pujary (House No.2/2 and 16) are within a distance of 200 yards from the tannery building. The actual distances are reported to be 556 and 549 feet respectively. If the distances are measured from the premises of the tannery building (boundary of the tannery site) they arep reported to be much less than 556 feet and 549 feet referred to above. The appellant has thus violated the by-laws of the Dist.Board. It will will therefore, be illegal to grant the license to the tannery in question;

3. The appeal purports to be under Sec.198(b) of the Dist.Boards Act. This section contemplates appeals under the places of publice resort act. On this ground also, the appeal is liable to rejection.

Sd. A.Mahalingam Chettiar,
Special Officer.

(TRUE EXTRACT)

(True copy) Sd.....
for Special Officer,
Dist.Board, S.K.

67

HECA
HV

Sub Licence. Dtc to Hides.
South Kanara Dt. Establishment
of a tannery at Mudushedde
& Sirivail villages. Objections
against the Cancellation
of licence. Memorandum
of.

Ref: From Sri Mohan Kumaramanga
. law, petition
dt- 18-6-54.

X

Memo 53848 HV/54.3-Health, dt 24/6/54

Referred to the Dt. Hfor
remarks in continuation
of Govt Memo no 53848 HV/54.2.
Health dt 16/6/54.

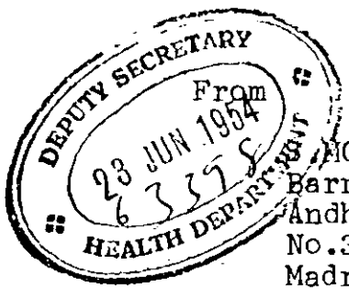
24/6/54

24/6/54

To the Dt Hfor
(with pp 53-58 cf
in orgl Lobe
returned
(with a reply)

Memo
25/6

Secy. N.E. Dept. H.
May be considered along with the Memorandum submitted.



175 23/6

S. MOHAN KUMARAMANGALAM,
Barrister-at-law,
Andhra Insurance Bldgs.,
No.337, Thambu Chetty St,
Madras 1.

To

The Hon'ble Minister for Health,
Government of Madras,
Fort St.George,
Madras.

SUB: REQUEST TO SET ASIDE THE ORDER OF THE DISTRICT BOARD, SOUTH KANARA REJECTING THE APPEAL OF MESSRS SEQUEIRA & COMPANY AGAINST THE CANCELLETION OF THEIR LICENCE FOR THE RUNNING OF A TANNERY BY THE SPECIAL OFFICER OF THE DISTRICT BOARD, SOUTH KANARA.

REFERENCE: MY MEMORANDUM SUBMITTED ON 28TH JUNE 1954.

Pp 53-58 ante

Dear Sir,

1. I am writing this letter in continuation of the Memorandum that I have submitted to you on behalf of my clients MESSRS SEQUEIRA & COMPANY, Hampankatta, Mangalore on 28th June 1954.

Pp 53-58 ante

2. On looking through the Memorandum that I have presented to you one or two minor mistakes have crept in, which I request you to kindly take note of.

3. In paragraph 9(d) at Page 4 I have incorrectly stated that "no residential quarters within 2000' of the Tannery" whereas it should be 200 yards.

4. In paragraph 9(h) I have stated "that the proposal to construct a building for the Tuberculosis Sanatorium was known at the time of the of the licence in September 1953" whereas the real position was "that not only was the proposal known but construction work of the Sanatorium building was actually in progress at the time of the grant of the licensee".

Z1

5. My clients inform that the District Health Officer inspected the site of the tannery along with my clients on 13.6.1954 and in pursuance of directions from the Director of Public Health, Madras, and no doubt the report submitted to the Director of Public Health will be available to you.

6. Under the circumstances, I would request that in view of the above, orders may be passed speedily on the Memorandum submitted by me on the 18th June 1954.

H 53-58

MADRAS DATED THIS 23rd June 1954.

7/ HELA

Sub. Licence. Dato tanades.

South Kanara Dt. Establishmen
of a tannery at Mudushedde
& Jeruail villages. Objections
against the cancellation
of licence. Memorandum.

12/11

Pp 69-70 Ey Ref: from Sri S. Mohankumaramangala
Advocate petition, dt 23/6/54.

—x—

Memo 53848 HV/54.4. Health, dt 30/6/54

Pp 69-70 Ey A copy of the petition cited
is forwarded to the D.P. H in
continuation of Govt Memo no
53848 HV/54.3. Health dt 24/6/54

To the D.P.H
(with a copy of Pp 68-68 Ey)

30 Ey

H5 73

From .
Dr.T.S.Adisubramaniam,D.I.H(ENG)
Director of Public Health,
MADRAS 6.

To
The Secretary to Government,
Health, Education and Local
Administration Department,
FORT.ST.GEORGE, MADRAS

R.No. 33853-1 HYG(2)/54 Dated 28-6-1954

Sir,

Sub:-LICENCE - Dangerous and Offensive Trades - South Kanara District - Establishment of a tannery at Mudushedde and Tiruvail villages - Objections against the cancellation of licence.

Ref:-Government Memorandum No.53848-HV/54-2 dated 16-6-1954.

ASSISTANT SECRETARY TO GOVT. 65844 JUL 1954 PUBLIC HEALTH, EDUCATION & LOCAL ADMIN. DEPT.

I have inspected the Tuberculosis Sanatorium and the proposed tannery at Muddushedde on 27-3-1954. The tannery has not started working and so no additional purpose would be served by my inspecting the place again.

2/ As I have stated in my letter L.Dis. 94077-5 HYG(2)/53 dated 1-4-1954, the tannery is likely to be a source of nuisance much beyond the 200 yards limit mentioned in the bylaws. This has been our experience in Chrompet, Pallavaram Erode and other places.

3/ Most of the nuisance from tanning industry is from the effluent during soaking and de-liming processes, which are common both to bark and chrome tanning. So, the nuisance is not likely to be greatly diminished in Chrome tanning. The tannery liquor in Chrome tanning is however less easily putrescible than that from bark tanning. But tanning liquor from Chrome tannery is more likely to offer difficulties in subsequent biological treatment than that from bark tanning So, I do not think it makes any great difference whether it is bark or Chrome tanning.

4/ For the above reasons, I am of opinion that it is not desirable to permit the installation of the tannery.

Yours faithfully,

30/6/54

FOR DIRECTOR OF PUBLIC HEALTH
MADRAS

sm.29/6

From
Dr.T.S.Adisubramaniam,D.I.H(ENG)
Director of Public Health,
MADRAS 6.

To
The Secretary to Government,
Health, Education and Local
Administration Department,
FORT.ST.GEORGE, MADRAS

R.No. 33853-2 HYG(2)54 Dated 28-6-1954

Sir,

Sub:-LICENCE - Dangerous and Offensive Trades- South Kanara District - Lstablishment of a tannery at Mudushedde and Tiruvail villages - Objections against the cancellation of licence - Memorandum of.

Ref:-Government Memorandum No. 53848-H.V/54-3 Health dated 24-6-1954.

I invite the attention of Government to this Office letters D.No. 125 HYG/54 dated 7-6-54 and R.No.33853-1 HYG(2)54 dated 28-6-1954. I have no further remarks to offer.

2.The enclosures received from Government are herewith returned.

Yours faithfully,

FOR DIRECTOR OF PUBLIC HEALTH
MADRAS

sa.29/6

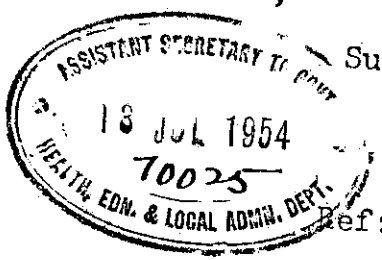
HS

From
Dr.T.S.Adisubramaniam, D.I.H.(Eng)
Director of Public Health,
Madras.

To
The Secretary to Government,
Health, Education & Local
Administration Department,
Fort St.George, Madras.9.

R.No.37757-1-Hyg(2)/54 dt. 10-7-1954

Sir,



Sub:- Lience - Dangerous and Offensive trades - South Kanara District - establishment of a tannery at Mudushedde and Tiruvail villages - objections against the cancellation of licence - Memorandum of -

Ref:- Government Memo.No.53848-HV/54-4 Health dt.30-6-54

The remarks offered in my letter R.No.33853-2-Hyg(2)/54 dated 28-6-54 require no modification.

Yours faithfully,

For Director of Public Health.

ocs.10/7

Subj: License - D. & O. Trade, - South Kanara District - Establishment of a tannery near Mudushedde and Tirwail villages - Objections

Ref: From the D. P. H., D. No: 140 - Hyg - 54 dated 25-6-54
From the D. P. H. R. No: 33853 - Hyg (2)/54 dt 28-6-54.

Memo 53848/54. 5. Health dt 19-7-54

The attention of the D. P. H. is invited to his letters cited. While in the first letter the D. P. H. has held that ordinarily there could be no objection to the location of the tannery in S. No: 10 of Tirwail village in South Kanara District

80

District, (in his letter second cited) ~~has~~ he has expressed himself against the grant of licence to the tannery. As the Minister for Health desires to discuss the matter with the D.P.H., he is requested to meet the M(H) in his room in the Secretariat at 11 A.M. on 23-7-54.

19-7-54

19/7 1934

SK 19/84

To the D.P.H.

F 73 C

desired

A 19/7

Draft

81 HELA(Hd)

Sub: Licence - D.A. Trades - South Kanara Dt - Establishment of a tannery in Tirumail village - objection.

Ref: Memorandum from the Counsel for Messrs Sequiera & Co, Mangalore, dt 18-6-54

Memo S 3848 HE/54.6. Health dt 19/7

Sri S. Mohan Kumaramangalam, Counsel for Messrs Sequeira & Co; Hampankatta, Mangalore, is informed that the Minister for Health desires to discuss the subject mentioned above with

him ~~sir~~ and the D. P. H. He is therefore requested to ~~be so good as to~~ meet the Minister in his room ~~at~~ in the Secretariat at 11 A.M. on 23-7-54 for the discussion.

MRP
19-7-54

19.7.54

SK
19/7/54

To
~~The~~ Dr. S. Mohan
Kumaramangalam
Andhra Eniswance Buildings
337, Thambu Chetty St,
Madras.

Despd
MR
19/7

85 HECA

HD

Sub: Licence. D+O trades. South Kanara Dt. Establishment of a tannery in ~~at Mudushedde and~~ Tirrivail village/ Objections against the Cancellation of a licence by the S.O. South Kanara Dt Bd.

Ref: From the D.P. H Rno. 33853-1-Hygg (2)/54 dt 28/6/54

" " 33853.2. Hygg (2)/54 dt 28/6/54

Govt Memo 53848 HD/54-5. Health dt 19.7.54

Memo 53848 HD/54-7 Health, dt 20/7/54

It was tentatively decided by H(H) at the meeting held with the D.P.H on 23.7.54 at the Secretariat, ~~Fort St George~~, that a licence might be granted to Messrs Sequeira & Co for running of the tannery in ~~at Mudushedde and~~ Tirrivail village/ subject to certain conditions and also subject to the Management carrying out the suggestions that might be put forward by the D.P.H and the S.E in the matter. The D.P.H and the S.E. are requested to suggest in consultation with each other the conditions that should be

Db 28/7

P.T.O.

274

imposed while granting a licence to the tannery ~~at~~ ~~[illegible]~~ in Punnaivil village

26/7/54
~~28~~
27-7-54

28 By

SK
26/7/54

To
The D.P.H.
.. The S.E. Hybrow

Pro MB 29/7

85 HEALTH
HV

Sub: Licence. D.to hides - South Kanara Dt - Estt of a tannery in Derivail village - Objections against the Cancellation of a licence by the So South Kanara Dt Bd.

———×———

Ref: Govt Memo no 53848 HV/54.7. Health dt 28/7/54.

———×———

Memo 53848 HV/54.8. Health dt 13/8/54

The attention of the D P.H and the S.E. is invited to the Govt memo cited and they are requested to expedite their submission of their

replies to the Govt memo ~~attached~~
~~as ready date.~~

2/8/54
NRL
12.8.54

1384

Dpd
13/8/54

to the DPM

SE. to Govt

A. 324 —70,10,558—20-1-54.

PUBLIC HEALTH Department

From (Name) Dr.T.S. Adisubramaniam, D.I.H.(England),
Designation
Director of Public Health,
Station
Madras-6.

Received 1/8/54 Registered 87

To

The Secretary to Government,
Health Education and Local Administration Department,
Madras.

Enclosures: R. No. 42980-2-Hyg(2)54, dated 18-8-54. 135 .

Dr,

ASSISTANT SECRETARY TO GOVT. 52829 1ST AUG 1954 HEALTH, EDN. & LOCAL ADMN. DEPT.

Sub: Licence - Dangerous and Offensive trades - South Kanara District - Establishment of a tannery in Tiruvail Village - objections against the cancellation of a licence by the Special Officer, South Kanara District Board.

Ref: Govt.Memo No.53848-H V/54-8 Health dated 13-8-54.

The Sanitary Engineer has been requested to inspect the place and suggest suitable measures for dealing with the tannery effluent. Reply to Government will be sent after receipt of his report.

Yours faithfully,

For Director of Public Health, Madras

sn/18-8

18

5384/54

ILELA

NR on 18/9/54

23/8/54

NR

23.8.54

5384/54

54
HC A
HD

Sub: Licence. D+o trades —
South Kanara Dt - Establish
ment
of a Tannery in Tirwail
village. Objections against
the grant of a licence by
the Sec South Kanara DTBd

20/21/9

Ref: from the D.P.H Rc No 42980. 2. Hyg 12/54 dt 18.8.54
Memo 5384 8 HD/54.9 Health dt 20/9/54

The D.P.H is requested to indicate the stage in which the matter now is and the date by which this final reply may be expected.

20/9/54

20/9

To the D.P.H

21/9/54

53848/54

From
Dr.T.S.Adisubramaniam, D.I.H.(Engalnd),
Director of Public Health,
Madras-6.

To
The Secretary to Government,
Health, Education and Local
Administration Department,
Fort St.Geroge, Madras-9.

-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-

R.No.42980 - HYG(2)54 dated 24-9-54

Sir,

96667

ASSISTANT SECRETARY TO GOVERNMENT
26 SEP 1954
HEALTH, EDUCATION & LOCAL ADMN. DEPT.

SUB: LICENCE - Dangerous and Offensive trades - South Kanara District - Establishment of a tannery in Tiruvail village - objections against the grant of a licence by the special officer, South Kanara District Board-

REF: Government Memorandum No.53848-HV-9 Health, dated 20-9-54.

*****

The Sanitary Engineer's report has just been received and my final reply will be sent shortly.

HE CA (HV)
DR on 10/10/54

28/9/54

MKH; 24/9/

Yours faithfully,

For Director of Public Health, Madras.

From
Dr. T.S. Adisubramaniam,
D.I.H. (England),
Director of Public Health,
Madras.6.

To
The Secretary to Government,
Health Education and Local Administration Department,
Madras.

-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-

90862

R.No.42980-5-Hyg(2)54 dated 29-9-54.

Sir,

ASSISTANT SECRETARY 1 OCT 1954 HEALTH, EDN. & LOCAL ADM.

Sub: Licence - Dangerous and Offensive trades - South Kanara District - Establishment of a tannery in Tiruvail village - objections against the cancellation of a licence by the Special Officer, South Kanara District.

Ref: Govt.Memo No.53848-H V/54-7 Health dated 28-7-54.

I have consulted the Sanitary Engineer. In addition to the conditions in the by-laws framed for the trades the following conditions are suggested for the chemical tratement of the effluent:-

1. Arrangements for screening the effluents before settlement.

2. The screenings including fleshings and hair should all be effectively trenched.

3. The screened effluents should be retained in a 24 hours settling basin with provision for addition of chemicals to control the PH and aid effective coagulation and settlement.

4. The settling tank should be desludged as often as is found necessary.

5. The settled effluent should be passed through an inspection chamber and distributed into the soil through dispersion trenches laid out radially.

6. Alternative lines of dispersion trench to be worked out at a time in order to reduce the load on the soil.

7. Dilution of the effluent may also be resorted to, with water drawn for the purpose from the local well in order to facilitate efficient dispersion.

8. Chlorination of the effluent should be resorted to when for any reason sub-surface dispersion is not possible for any temporary period.

Yours faithfully,

[signature]

For Director of Public Health, Madras.

sn/29-9.

95 HELA

Dangerous and offensive trades, H.D

Sub: Licence - South Kanara District
Establishment of a tannery
at Jeruvail village -
Revocation of licence granted -
Objections against - Orders
passed.

Ref: From the S.O. South Kanara
D.H.O. Reg. No. C3/25398
dt 23.5.54

From the D.H.O. D.No. 125 Hyg (2)/5
dt 7-6-54

From Sri S. Mohan Kumaramangal
Advocate for Messrs Sequeira &
Hampenkatta, Mangalore
petition, dt 18.6.5
" " petition dt 23/6/5

From the D.H.O. R.No. 33853.1 Hyg
(2)/54, dt 28/6/5
R.No. 42980.5. Hyg/54
dt 29.9.54

Order (Ms) 2805 Health dt 15/10/54

Messrs Sequeira & Co. Hampankatta
alore, applied to the S.O. South
Kanara District Board on 9.7.53 for
and a licence
permit to construct and run a
tannery at Jeruvail village (Field No
S.No: 10)
After
Mangalore Taluk. Consulting
the D.H.O. South Kanara and on the
recommendations of the D.H.O,

the Spl officer granted the necessary permission and licence in his proceedings dt 16.9.53 and a licence also subject to certain specific conditions. p5 cf

Lr No 302/53-5 dt 2.1.54 p5 cf

In october 53, on receipt of certain representations from the Secretary, the Madras Provl (State) Welfare fund South Kanara Branch and certain residents of Irinjail village against the grant of a licence to the tannery on the ground of its proximity to the T.B. Sanatorium and the water source for the whole village, the after examining the representations Special officer kept the orders granting permission to the Tannery in abeyance. para 3, p1 cf p11 cf

Messrs Segnei & co was also directed not to start any operations in the Tannery until further orders. 1K on p11 cf

2 On receipt of further representations from Messrs Segueira & co against the directions of the Spl officer dt 11.11.53, para 5, p2 cf

a local inspection, to satisfy himself as to the validity of the objections raised was made by the Spl officer on 25.1.54 in person. As he was fully satisfied that the objections against the establishment of the tannery in the present place were just and valid, he revoked the licence granted to the company. The company through its legal counsel on 23.2.54 and 1.5.54 sent Suit notices to the SO against the revocation vide M pp 13-14 cf

vide M p15 cf

M p17-21 cf

M p29-31 cf

P.T.O.

revocation of the licence. The (Ex. S-0)
South Kanara Dt Bd at its meeting
held on 20.5.54 resolved among
others, to approve the draft replies
to the suit notices prepared by
its Counsel on behalf of the Soan
the Board, and
to defend the suits, if they were to
be filed by the Company

2 the special Officer South
Kanara Dt Bd brought the matter
to the notice of the Govt and
requested the Govt for action
approval of his/and
Dt Board's resolution. Representation
were also made to the Govt in the
matter by the legal counsel
representing the Company. The
examined in detail
matter was discussed in July-54
at a meeting in which the
advocate for the Company and
the D.P.H partook. Thereafter Govt,
Consider
after a careful examination of the case now decided that the
tannery can be permitted
to work in the present site
(in Dirwail village) provided
that the Company undertakes
to satisfy the following
conditions in
addition to those in the by laws
framed for the trades

HE 'M' on p93 cf

#98

S.O.
Parasidant

4 The ~~So~~ South Kanara Dt Bd is requested grant the licence to the Company for carrying on the trade in question and the conditions enacted in para 3 above should also be incorporated therein.

2
9/10/54
NRP
9-10-54

4
11/10/54

SAS
11/10/54

To Parasidant
the ~~Sub~~ Collector & Dist Magistrate
South Kanara
~~Dt Bd~~,
Mangalore.
" D.P.H - 5
To Sri S. Mohan Kumara Mangalam
B.A. (Cantab)
Barrister-at-Law
No 337, Thambu Chetty St
Madras 1
Copy to the Collr South Kanara Mangalore
(2 Secs)

CENTRAL DESPATCH BRANCH
Van.
Dept.
Despatcher
Messenger.
Date 25/X 1954. Despatcher's Initials

Kontaie

HELA (H.V.) DE

Sub: Licence - D & O Trades - South Kanara Dt. - Establishment of a tannery near Mudushedde and Tiruvail villages - Objections against - Cancellation of the licence - ~~Suit notice against.~~

Ref: From the Special Officer, South Kanara District Board, Ref.C.No.C3/25398/53, dated 23-5-1954.
Issued as Memo No 54948 **/54 dated 31-5-54

The Special Officer, South Kanara District Board granted licence to establish a tannery in Tiruvail village in South Kanara District by Messrs. Sequeira and Company. Government received certain representations against the establishment of the tannery in the place. Reference is invited in this connection to the note on pp. 1-3- n.f. and the minutes of Minister (H.) on p. 3 n.f. of G.O. No. 981 Health, dated 19-4-1954. As the Special Officer of the District Board since cancelled the licence ~~the~~ granted for the establishment of the tannery, the papers were recorded in the G.O. at (M).

On receipt of a ~~petition~~ suit notice from the proprietors of the tannery, the Special Officer of the District Board has again referred the matter to the Government for their ~~decision~~ orders. The remarks of the D.P.H. on this reference have been called for - Vide the memo on p.1c.f.

9/6/54 for ci fossnabain

S A Sobhan
9.6.54

M(H) When I was at Mangalore at the end of last month, it was represented to me

that the factory was a small one fitted up with modern sanitary arrangements such as septic tank and covered underground drainage. It was further said that it was meant for tanning chrome leather and that experts are of opinion that there is no chance of any foul gas emanating from it. In the light of these representations, it may be examined again whether this factory may be allowed to work in the place at which the building has been put up and licence was once granted.

B

~~ASSLEDY~~
12/6

SECRETARY TO GOVERNMENT
14 JUN 1954
HEALTH, EDN. & LOCAL ADMN. DEPT.

The routine note on page 1 ante and the minutes of H (H) above may be perused. The D.P.H whose remarks were called for on the Writ notice received from Messrs Sequeira & Co, Mangalore, has since stated that the action of the Special Officer, South Kanara District Board and the Board (presumably in having sent a reply to the Legal Counsel for Messrs Sequeira & Co) may be approved. The recommendation of the D.P.H on p47 cf is in accordance with the view expressed by him in his letter to the Govt on page 25 cf of (H).

P47 cf

vide p39 cf

A

P47 cf

on p47 cf

2. It is for consideration whether in view of the minutes of H (H) above the D.P.H may be again asked to inspect the Tannery premises personally before final orders are passed on 'A' above. His attention is in this connection solicited to H(H)'s minute at H/3 ante.

'B' above

Yes Agk
Min Code 80
SB
15/6

14/6/54
15/6/54
15/6.

15/6
15/6

53848 cf

A draft memo to the D.P.H. is submitted for approval.

15/6/54
WRP
15-6-54

SA
16/6/54

pp 49-50 cf

[Issued as Memo No 53848 HV/54-2 Health dt 16/6/54

from Sri Mohan Kumara Mangalam

p 51 cf

Counsel for Messrs Sequeria & Co, Mangalore, petition dt 18/6/54]

pp 1-4 cf

The memorandum on pages 53-58 (refuting the Contentions and the reasons adduced by the Spl Officer, South Kanara Dt Bd for his cancelling the permission granted for the Construction and establishment of a tannery in Tirwail village to Messrs Sequeria & Co) may be forwarded to the D.P.H. in continuation of the memo on pages 49-50 cf. so that when he personally visits the tannery premises, he may verify whether facts stated in the memorandum are true or not.

~~or corrected for orders~~

Subject to orders a draft memo is submitted for approval

3/6/54
WRP
24-6-54

24/6/54

P.T.

[Issued as Memo no 53848 Hy/54-3 Health, dt 24/6/54] p67 cf

From Sri S. Mohan Kumaramangalam, Pehitroin, dt 23/6/54. pp 69-70 cf

Extracts of the Minutes of M(Hy) on p57 cf 69

"May be considered along with the memorandum submitted"

A draft memo to the D.P.H is submitted for approval

Sd A.B.S (Hetty) 23.6.54.

29/6/54 Sd 30-6-54

29-6-54.

[Issued as Memo no 53868 Hy/54-4. Health dt 30.6.54] p71 cf

From The D.P.H Rno. 33853-1 Hyg (2)/54 dt 28/6/54 p73 cf

From the D.P.H Rno. 33853-2 Hyg (2)/54 dt 28/6/54 p75 cf

— x —

pxx

With reference to the minutes of M(H) on pages 1-2 ante and the note and orders of D.S (now JS) on p 2 ante, the D.T.H was asked to inspect the tannery premises personally and submit a report whether, in view of the fact that the tannery is fitted with modern sanitary arrangements (such as septic tank and underground drainage) and pp 47 s.f

'Bong 2 ante

P.T.O

Dempt auto

that chrome leather tanning alone is to be done therein, the factory may be allowed to work or stopped completely.

pp 53-58 of

The memorandum presented by Sri Mohan Kumaramangalam, Legal Counsel for Messrs Sequeira and Co appealing against the orders of cancellation of licence for the tannery by the Special Officer, South Kanara DT Board was also forwarded to him for remarks. The D.P.H

p 67 of

has stated that he had already

para 1, p 73 of

inspected the T.B. Sanatorium and the proposed tannery once on 27-3-54 and that as the tannery has not started working no additional purpose would be served by inspecting the place again. He considers for

para 2, p 73 of

the reasons stated in paragraph 2-3 of his letter on p 73 of that it is not desirable to permit the establishment of a tannery.

2 In view of the consistent opinion expressed by the D.P.H on three occasions, it is for consideration whether the action of the S.O. DT Bd in cancelling the licence should be upheld and the appeal of the party rejected.

Vide p 25 of (M), p 47 of, p 73 of

3 May be circulated to M(H),

12/7/54

13.7.54

From xxxx on p. 4 ante

M(H)'s minute on pp 1-2 ante

In this file dealing with the grant of licence to the tannery the D.P.H. for the reasons stated in his letter on p 73 et seq is against granting the licence. But in his letter on p. 17 et in the linked file, C.N.O.S. he has stated that the sanatorium 'M' on p 17 is on the top of the hill, & the tannery at its bottom, the distance between them being 1917 ft. & 'N' on p 17 a that ordinarily there could be objection to the location of the tannery in its present place.

As the two reports of the D.P.H. seem to be contradicting each other & seem to me that the matter is discussed with the D.P.H.

DEPUTY SECRETARY (19 JUL 1954) HEALTH DEPARTMENT

Before orders are passed by M(H) the advocate for the petr wants to be heard by M(H)

S.A. Sobhan 16.7.54

may be discussed with the D.P.H at 11 A.M on 23/7/54 & the advocate may be present on the occasion.

M(H) 17/7

issue memo attached

S.K. 19/7

With reference to the minutes on p 6 ante two drafts are submitted for approval.

19-7-54

19/7/54

19/7/54

PP 79-80 [Issued as Memo No: 53848-HV-54-5 Health dt 19-7-54]

PP 81-82 [Issued as Memo No: 53848-HV-54-6 dt 19-7-54]

The file may be submitted to M(H) for perusal at the ~~Conf~~ meeting with the D.P.H and the Counsel for the petitioner, on 23-7-54

22-7-54

22/7/54

The matter was discussed with the D.P.H. today (23.7.54). Sri Mohan Kumaramangalam advocate was present. According to the petitioners there are no objections for granting licence both from hygienic point of view as also the D.P.H. said that there may be no objection if there is no obnoxious smell finding the air emanating from the tannery. DL was decided that licence may be granted on condition that the tannery purifies. Carry out the suggestions

T.

Suggestions made by the DPH HSE after a joint inspection

The DPH HSE may be asked to inspect the tannery & make their suggestions

No joint inspection SA Subhan
seems necessary. 23.7.54
Let them suggest the
conditions to be imposed.
sd/-
26/7

M(H)

Please see the orders in circulation above. A draft memo is submitted for approval.

27.7.54 NRP

28/7

JJ 28/7

After return of the file from JS this DF will be dealt with

Issued as Memo 5.3&48. HD/54.7 Health dt 28/7/54 J

[From the D.P.H Rm. 42980. 5. Hyg(2)/54 dt 29.9.54 J

Let the file be linked & sent to HIII on 7/8

pp 83-84 ✓

With reference to the foregoing note from xxxx on page 7 ante and the minutes of M(H) above, the D.P.H

P.T.O.

538148/54

1:3 only

who was addressed has since suggested (in consultation with the Sanitary Engineer, the imposition of the additional conditions (specified at 'M' on p 93 c/f) in the licence proposed to be granted to the tannery at Tirwail. Orders may be issued to the SO South Kanara DT Bd to grant the licence to the tannery imposing therein the additional conditions suggested at 'M' on p 93 c/f.

Draft below is for approval.

For orders as to circulation.

(The draft is self explanatory).

8/10/54

9/10/54

11/10/54

G.A. Gulshan
12.10.54

M (H) 13/10